



Intellectual
Property
Office

Exceptions to copyright:

Libraries, archives and museums



October 2014

Copyright protects literary, dramatic, musical and artistic works as well as films, sound recordings, book layouts, and broadcasts. If you want to copy or use a copyright work then you usually have to get permission from the copyright owner, but there are a few exceptions where you can copy or use part or all of a copyright work without permission. Where a work contains a performance, the performer will also have rights over how the work is used. The exceptions to copyright also apply to these related rights.

The law on these exceptions has changed in a number of small but important ways, to make our copyright system better suited to the digital age. These changes affect how you can use content like books, music, films and photographs.

The majority of uses of copyright materials continue to require permission from copyright owners, so you should be careful when considering whether you can rely on an exception, and if in doubt you should seek legal advice. Copyright infringement is against the law. Deliberate infringement on a commercial scale may lead to a criminal prosecution, so you should take care when using copyright materials. Further guidance on copyright is available on the GOV.UK website.



Who should read this guidance?

This guidance leaflet sets out the exceptions applicable to libraries, archives and museums. This is relevant to anyone who works in or with libraries, archives or museums, or copyright owners whose content is held by such institutions.

What has changed?

The law has changed to make it easier and cheaper for cultural institutions like libraries, archives, and museums to use, share and preserve their collections.

There are two significant changes which will affect libraries, archives and museums. The first relates to making copies of works to preserve them for future generations. The second allows greater freedom to copy works for those carrying out non-commercial research and private study.

Archiving and preservation of resources

What's changed?

Changes to copyright law for archiving and preservation will make it easier to preserve creative content held by libraries, archives and museums. These institutions are now allowed to preserve any type of copyright work that is held in their permanent collection (but not available for loan to the public) and cannot readily be replaced. This will ensure that our cultural heritage is not lost for future generations.

FAQs

I am a librarian/archivist/curator, what am I allowed to do now?

You can copy works for archiving and preservation reasons if they are part of a permanent collection and it is not reasonably practicable to purchase a replacement.

What types of work can I copy for preservation?

You will now be able to preserve films, broadcasts, sound recordings and artistic works (including photographs), as well as literary, dramatic and musical works.

How many copies can I make?

The work can be copied as many times as necessary for the work to be preserved.

Can I copy (for archiving / preservation purposes) any work held by the library/archive/museum/gallery?

No. This exception only applies to material held in the permanent collection of an institution that is not available for loan to the public.

Why is it necessary to allow multiple copies of works to be made for preservation/archiving?

There is a risk that both the original and the copy of a work may degenerate or corrupt over time. Making a single copy may be insufficient to safeguard a work in the long term.

Research and private study

Copying works for research and private study

Librarians are permitted to assist researchers and students by providing limited copies of books, plays and musical scores, pictures and photos, literary, dramatic, musical and artistic works for non-commercial research and private study. The amount that can be copied is restricted to a reasonable proportion. This rules out unfair or unreasonable uses such as copying a whole film for “research” instead of buying the DVD and generally means that only a part of a work can be copied. Use made of the work should be accompanied by sufficient acknowledgement (e.g. in a reference or bibliography).

What’s changed?

The law has changed so that all types of published copyright works are now covered by the provisions in copyright law allowing limited copying for non-commercial research and private study. The same provisions about only copying a part of a work and sufficiently acknowledging the author still apply.

Educational institutions, libraries, archives and museums are now permitted to offer access to copyright works on their premises at dedicated electronic terminals for research and private study.



FAQs

Does this mean students can, on grounds of “research”, use this exception to copy parts of any film they wish to watch?

Not unless the film was genuinely relevant to their course, or some other independent study they were carrying out. Copying is limited to what’s strictly necessary for genuine non-commercial research or private study.

Does this mean that companies will be able to access material for free if they are doing research?

This exception only applies to non-commercial research so it is very unlikely to apply to research done by a company.

How does a librarian ensure that the person is genuinely doing non-commercial research or private study?

A librarian who is supplying a copy of a work will wish to ask a researcher to declare that they are doing non-commercial research; this can now be done electronically (for example, an electronic copyright declaration form could be signed using a typed signature or check-box).

What types of libraries are able to provide copies of works?

Publicly accessible libraries and archives, such as those run by universities, schools, local councils, government departments and NHS institutions can provide copies of copyright work for non-commercial research and private study, as set out in this guidance. The provisions do not extend to private libraries or archives, such as law firms that run on a commercial basis.

How much of a work is a librarian allowed to copy for a student or researcher?

The amount you are able to copy of a published work is limited to a reasonable proportion, and a copyright declaration must be provided. This generally means that only a limited part that is necessary for the research project may be copied.

However, archivists may supply a single copy of a whole or part of a work provided that the work had not been published or communicated before it was deposited in the library or archive, or the owner of that work has not prohibited the copying of that work. As usual, a copyright declaration must be provided.

Do libraries still have to charge students and researchers when providing copies?

Libraries now have the flexibility to determine whether they charge students and researchers for making and supplying copies. But any charge must be in line with the cost of making that copy.

Where can I install dedicated terminals?

Dedicated terminals can be placed in libraries, archives, museums and educational establishments. In educational establishments, you could install dedicated terminals in the university's library and language labs, for example.

What can dedicated terminals be used for?

Institutions may make available works they hold (such as books in their collections, preserved manuscripts that are too old to display or newly digitised sound recordings) to people wanting to undertake research and private study. Institutions making these works available should take into account any licence terms in place.

Effect on existing licences:

I have a licence granted under the old law, what happens now?

If your licence grants wider permissions than the new law, then your licence will be unaffected. If the new law lets you do more than your licence, then you can rely on the new law. Your licence will still be valid, but in so far as any term says you cannot do something allowed by the new law, you will not have to comply with that term.

What is fair dealing?

‘Fair dealing’ is a legal term used to establish whether a use of copyright material is lawful or whether it infringes copyright. There is no statutory definition of fair dealing - it will always be a matter of fact, degree and impression in each case. The question to be asked is: how would a fair-minded and honest person have dealt with the work?

Factors that have been identified by the courts as relevant in determining whether a particular dealing with a work is fair, include:

- Does using the work affect the market for the original work? If a use of a work acts as a substitute for it, causing the owner to lose revenue, then it is not likely to be fair.
- Is the amount of the work taken reasonable and appropriate? Was it necessary to use the amount that was taken? Usually only part of a work may be used.

The relative importance of any one factor will vary according to the case in hand and the type of dealing in question.



Further Information

Guidance on changes to the copyright exceptions is available at <https://www.gov.uk/government/publications/changes-to-copyright-law> Guides include:

- Overview
- Education and Teaching
- Research
- Copyright material held by public bodies
- Accessible formats for disabled people
- Creators and copyright owners
- Guidance for consumers

Find out why the Government has changed the copyright exceptions here:

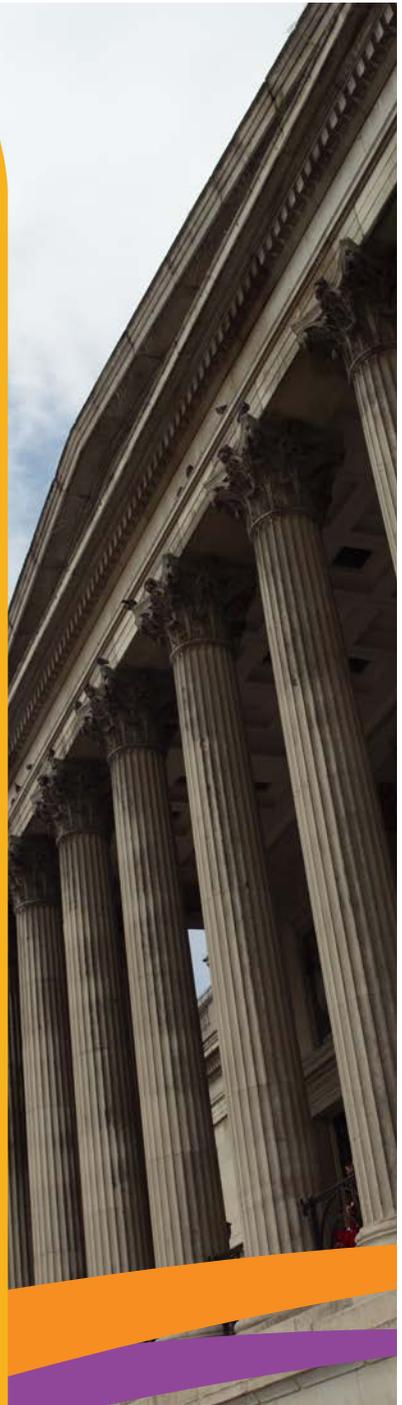
Modernising Copyright, a modern, robust and flexible framework: <http://www.ipo.gov.uk/response-2011-copyright-final.pdf>

IP information: Learn more about Intellectual Property by visiting the IPO web pages: www.ipo.gov.uk

Licensing: More information can be found at: <http://www.ipo.gov.uk/types/copy/other/c-licence.htm>

IP Healthcheck: The IPO's free IP Healthcheck can help you to find out more about the different IP rights and how they affect you and your business: www.ipo.gov.uk/iphealthcheck

Note: This guidance sets out the general principles of the changes to copyright law, it is not legal advice. It is recommended that you obtain legal advice in circumstances where you have specific questions relating to the law.



Intellectual Property Office Online

Web: www.gov.uk/ipo

Facebook: www.facebook.com/TheIPO.UK

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Any enquiries regarding this publication should be sent to:

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