



Intellectual
Property
Office

Exceptions to copyright:

An Overview



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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 is changing in a number of small but important ways, to make our copyright system better suited to the digital age. These changes will affect how you can use content like books, music, films and photographs.

The majority of uses of copyright materials will 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 Intellectual Property Office website.

The exceptions to copyright for **‘research and private study’, ‘text and data-mining’, ‘education and teaching’, ‘archiving and preservation’, ‘public administration’** and to permit **‘accessible formats for disabled people’** will come into force on the 1st June 2014.

Parliament has not yet approved exceptions to copyright for **‘personal copies for private use’, ‘caricature, parody and pastiche’** and **‘quotation’**. The government intends to bring these exceptions into force as soon as possible.



Who should read this guidance?

This leaflet sets out an overview for anyone interested in the changes to copyright exceptions.

The changes to copyright exceptions will affect how copyright works can be used. This will affect a wide range of individuals and businesses, both where they make use of another's copyright content and where they generate or provide copyright content.

You may find it useful to familiarise yourself with all eight guides in this series, although some guides will be more relevant to particular readers than others.

For example, the guidance leaflets on *Research* and on *Education and Teaching*, will be of particular interest to those involved in these fields.

The *Guidance for creators and copyright owners* will be of particular interest to those who generate, provide or use copyright content.

Personal Copies for Private Use

What's changing?

Copyright law is being modernised to permit people to make private copies of media they have bought (such as CDs and eBooks), for purposes such as format shifting or back up.

What does this mean?

Individuals will be allowed to make copies of media they have bought, for their own use. So the law will allow someone to transfer their own CDs onto their mp3 player, but it will not allow people to make copies and give them to other people.

This change will also clarify that it is legal for firms to make and provide technology that enables individuals to make private copies.

For further guidance see:

- Exceptions to copyright: Guidance for consumers

Caricature, Parody or Pastiche

What's changing?

The law is changing to allow people to make some limited, reasonable use of creative content protected by copyright, for the purpose of caricature, parody or pastiche, without having to obtain the permission of the rights holder.

What does this mean?

Many works of caricature, parody or pastiche – songs, films, artworks and so on - especially in this age of digital creation and re-mixing, involve some level of copying from another work. The new exception allows use of someone else's copyright material for these purposes – but only if the use is fair and proportionate. For example, the use of a few lines of song for a parody sketch is likely to be considered fair, whereas use of a whole song would not be and would continue to require a licence.

For further guidance see:

- Exceptions to copyright: Guidance for creators and copyright owners
- Exceptions to copyright: Guidance for consumers
- Exceptions to copyright: Education and Teaching

Quotation

What's changing?

Copyright law is being amended to give people greater freedom to quote the works of others.

What does this mean?

It will be possible to take quotations from copyright works without the permission of the owner, as long as the use is proportionate and fair. For example, the quotation of a title or short extract in an academic article may be considered fair, and be permitted under this exception, whereas the copying of a long extract from a book, without it being justified by its context, would not be permitted.

For further guidance see:

- Exceptions to copyright: Guidance for consumers
- Exceptions to copyright: Guidance for creators and copyright owners
- Exceptions to copyright: Education and Teaching
- Exceptions to copyright: Research



Research and Private Study

What's changing?

Copyright law is changing to permit reasonable copying of sound recordings, films and broadcasts for non-commercial research and private study, without permission from the copyright holder. Institutions like libraries and universities will also be able to offer access to copyright works on the premises at electronic terminals for research and private study.

What does this mean?

Students will be able to have greater access to content in fields such as musicology, media studies, film, oral history and medicine. Copying must be reasonable and fair, so copying a whole DVD instead of buying a copy will not be permitted.

For further guidance see:

- Exceptions to copyright: Research
- Exceptions to copyright: Libraries, archives and museums
- Exceptions to copyright: Education and Teaching

Text and Data-Mining

What's changing?

Changes to copyright law will allow computer-based analysis (known as text and data-mining) of copyright material for non-commercial research without having to obtain specific permission from the rights holder.

What does this mean?

Researchers will be able to copy materials for the technical process of data mining, as long as they have the right to access to the works in question. This change will only apply when the research is for non-commercial purposes.

For further guidance see:

- Exceptions to copyright: Research
- Exceptions to copyright: Libraries, archives and museums

Education and Teaching

What's changing?

Copyright law is being modernised to make it easier for schools, colleges and universities to use copyright materials. It will remove restrictions on the use of copyright materials with modern teaching practices such as Distance Learning.

What does this mean?

The exceptions relating specifically to educational establishments are widening, allowing more extensive use of materials in conjunction with educational licensing schemes.

Another change will permit minor acts of copying for teaching purposes, as long as the use is considered fair and reasonable. So, teachers will be able to do things like displaying webpages or quotes on interactive whiteboards, without having to seek additional permissions.

For further guidance see:

- Exceptions to copyright: Education and Teaching
- Exceptions to copyright: Library, archives and museums

Archiving and Preservation

What's changing?

The law is changing to make it easier for libraries, archives, museums and galleries to preserve their collections.

What does this mean?

Libraries, archives, museums and galleries will be able to make copies of all types of creative works in their collections, in order to preserve them for future generations, when it is not reasonably practicable to purchase a replacement.

For further guidance see:

- Exceptions to copyright: Library, archives and museums

Public Administration

What's changing?

The existing copyright laws relating to public administration are being extended to enable more public bodies to proactively share some third party copyright material online, such as material submitted by an individual or business for the purpose of maintaining a public register.

What does this mean?

Public bodies are currently only able to provide that material by issuing paper copies or making the material available for inspection at their premises. Making this material available for wider viewing on the internet will enable the public to access information easily and conveniently, offering greater transparency and saving time and expense both for public bodies and individuals.

For further guidance see:

- Exceptions to copyright: Copyright material held by public bodies

Accessible formats for disabled people

What's changing?

Two changes will be made to copyright law for the benefit of disabled people. One change will allow individuals to make a single copy of copyright works in accessible formats for the personal use of a disabled person.

The other change will allow charities to make multiple copies of copyright protected works for disabled people.

What does this mean?

If any type of copyright work is not available commercially in a format that can be accessed by a disabled person, an individual or charity will be able to make an accessible copy for them.

For further guidance see:

Exceptions to copyright: Accessible formats for disabled people

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 <http://www.ipo.gov.uk/copyright-exceptions.htm> Guides include:

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

Find out why the Government is changing 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/c-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.



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Facebook: www.facebook.com/TheIPO.UK

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Any enquiries regarding this publication
should be sent to:

The Intellectual Property Office
Concept House
Cardiff Road
Newport
NP10 8QQ

Tel: 0300 300 2000

Fax: 01633 817 777

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