

THE COPYRIGHT ACT 1994

GUIDELINES FOR LIBRARIANS

Third Edition

**Produced by the Copyright Task Force of the
Library and Information Association
of New Zealand Aotearoa
Te Rau Herenga o Aotearoa**

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THE COPYRIGHT ACT 1994 GUIDELINES FOR LIBRARIANS

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THE COPYRIGHT ACT 1994

GUIDELINES FOR LIBRARIANS

NOTE: These guidelines are intended to provide an explanation of the provisions of the Copyright Act 1994 and their implications for libraries, as these are understood at present by the Library and Information Association of New Zealand Aotearoa : Te Rau Herenga o Aotearoa. It is recommended that librarians should consult the Act and, for more detailed explanation, seek further advice from their legal advisers.

COPYRIGHT

1. DEFINITION OF COPYRIGHT (ss.14-16)

- 1.1 Copyright is a property right that enables the copyright holder to do certain specified things (see s.16) in relation to the following original works:
- literary, dramatic, musical or artistic works
 - sound recordings
 - films
 - broadcasts
 - cable programmes
 - typographical arrangements of published editions, e.g. the typesetting and layout of a new edition of a work.
- 1.2 Copyright therefore covers a very wide range of materials, including books, periodicals, newspapers, personal papers, musical and art works, sound recordings, films, videos, photographs, multi-media works, sound and television broadcasts, cable programmes, computer programs and software, computer databases, CD-ROMs, maps, charts, sheet music, paintings, works of architecture, and new editions of older works.
- 1.3 These works are covered, whether they are published or produced in New Zealand or overseas.
- 1.4 Copyright does not, however, exist until a work is recorded, in writing or otherwise.
- 1.5 Copyright is not solely a right to copy. It includes a number of other rights relating to the work as well – for example to perform, play or show the work in public.
- 1.6 The lending (issuing) of works is not normally a breach of copyright.

2. COPYRIGHT OWNERSHIP (s.21)

- 2.1 Copyright is normally owned by the author. However, if a work is made by an employee in the course of employment, that person's employer owns the copyright. And if someone commissions a work such as a photograph, sound recording, painting, model, map or computer program to be made, then the person who commissions and pays for the work is the copyright owner.

- 2.2 Copyright ownership may be passed to others by contract or agreement. Many authors of books and periodical articles, for example, pass copyright ownership to their publishers. Hence, for most commercially published work, copyright ownership rests with the publisher.
- 2.3 There may be separate copyright ownership in illustrations, photographs, graphics, maps, diagrams or graphs, etc. that are included in a periodical article or book.
- 2.4 Copyright ownership in unpublished works such as university theses and dissertations rests with the author.

3. DURATION OF COPYRIGHT (ss.22-27)

- 3.1 Copyright in a literary, dramatic, musical or artistic work expires 50 years after the death of the author, or if the author is unknown, 50 years from the end of the calendar year when the work was first made available to the public.
- 3.2 Copyright in a film or sound recording expires 50 years from the end of the calendar year in which the work was made, or 50 years from when the work was made available to the public by publication, broadcasting or inclusion in a cable programme service.
- 3.3 Copyright in a typographical arrangement of a published edition (including a new edition of an older work) expires 25 years from the end of the calendar year in which the edition was first published.
- 3.4 Copyright in an unpublished work expires 50 years after the death of the author or, if there is no author, 50 years after the work was made.
- 3.5 Copyright in Crown publications continues for 100 years. However, there is no copyright in any of the following Government publications: bills, acts, regulations, bylaws, parliamentary debates, reports of select committees laid before the House of Representatives, judgments of courts and tribunals, reports of Royal commissions, commissions of inquiry, ministerial inquiries and statutory inquiries.

4. INFRINGEMENT OF COPYRIGHT (Part II, ss.29-39, 93)

- 4.1 Copyright is infringed by a person who, without permission, does any of the following restricted acts:
- copies the work, or any part of it;
 - publishes the work;
 - issues copies of the work to the public (note that “issuing” here does not refer to the lending of original works to the public);
 - performs, plays or shows the work in public;
 - makes the work available to the public by means of an electronic retrieval system;
 - broadcasts the work;
 - includes the work in a cable programme service;
 - makes an adaptation of the work, or does any of the above in relation to an adaptation.

4.2 Copyright is also infringed by a person who, without permission:

- imports an infringing copy;
- possesses or deals with an infringing copy;
- provides the means for making an infringing copy;
- permits the use of premises for an infringing performance;
- provides apparatus for an infringing performance.

4.3 “Providing means for making infringing copies” (s.37) is not intended to include libraries which provide public photocopying machines, but rather to cover equipment specifically designed for copying a particular work on a commercial scale, e.g. the use of moulds for making three-dimensional objects which infringe copyright.

4.4 Where the Act allows a copy to be made, subsequent selling or letting for hire of that copy is not permitted. Furthermore, subsequent selling or letting for hire may make what was once a permitted copy an infringing copy.

5. PRINCIPAL SECTIONS OF THE ACT

5.1 The sections of the Copyright Act 1994 which are of particular relevance to librarians are:

s.4	Cable programme service
ss.12 and 35 and Part VII	Parallel importing provisions
ss.26-27	Crown copyright
Part II	Infringement of copyright
s.43	Research or private study
ss.44-49	Copying for educational purposes
ss.50-57	Copying by librarians or archivists
s.58	Copying by Parliamentary Library for Members of Parliament
s.71	Abstracts of scientific or technical articles
s.79	Rental of films etc. by educational establishments and libraries
s.80	Back-up copy of computer program
ss.82-91	Broadcasts and cable programmes
s.93	Subsequent dealings with copies made under Part III
Part IV	Moral rights
Part VIII	Copyright licensing

5.2 These sections are dealt with under the generic category of library activity which they most affect.

6. PRESCRIBED AND NON-PRESCRIBED LIBRARIES (s.50)

- 6.1 The Copyright Act 1994 divides New Zealand libraries into prescribed libraries and non-prescribed libraries.
- 6.2 Libraries prescribed in the Act are:
- The National Library
 - The Parliamentary Library
 - The District Law Society Libraries
 - Libraries maintained by educational establishments
 - Libraries maintained by government departments
 - Libraries maintained by local authorities.
- 6.3 Libraries prescribed in the Copyright (General Matters) Regulations 1995 (SR 1995/146) are:
- Libraries that are members of the Interloan Scheme jointly administered by the National Library of New Zealand and the New Zealand Library and Information Association : Te Rau Herenga o Aotearoa (now the Library and Information Association of New Zealand Aotearoa : Te Rau Herenga o Aotearoa).
- 6.4 Libraries prescribed in the Copyright (General Matters) Amendment Regulations 1998 (SR 1998/281) are:
- Libraries of Crown entities, as that term is defined in section 2 of the Public Finance Act 1989.
- 6.5 Requesting-only libraries are not members of the Interloan Scheme.
- 6.6 Non-prescribed libraries are all other libraries, including overseas libraries.
- 6.7 Non-prescribed libraries, other than those libraries conducted for profit, may apply to be classed as prescribed libraries (s.234(b)).
- 6.8 A library that forms part of an organisation conducted for profit is not in itself necessarily a library conducted for profit.
- 6.9 While prescribed libraries may take advantage of the permitted acts listed in ss.51-56 and 79, non-prescribed libraries may not. That is, unless licensed by the copyright owner to do so, non-prescribed libraries may not:
- copy a reasonable proportion of a work, a whole work, or a periodical article for their own users or for the users of other libraries;
 - copy a work for the collections of other libraries;
 - copy a work or article to preserve or replace an item in their own collections or the collections of other libraries;
 - copy an unpublished work for any person;
 - rent a computer program, sound recording or film to any person.

- 6.10 Librarians of non-prescribed libraries are encouraged to think of alternative ways in which they can assist their own users to make use of the Copyright Act provisions available to those users.

ACQUISITIONS

7. PARALLEL IMPORTING (s.35 and s.12)

- 7.1 With the enactment of the Copyright (Removal of Prohibition on Parallel Importing) Amendment Act 1998, it is no longer an infringement of copyright to import into New Zealand an object (including a book or other work) that has been made by or with the consent of the owner of the copyright, or other equivalent intellectual property right, in the country in which the object was made.
- 7.2 This means that it is now legal for libraries to import books or other works directly from overseas, rather than through New Zealand distributors or booksellers.
- 7.3 It continues to be an offence to import into New Zealand a pirated copy of a work.
- 7.4 The cost of publications supplied by overseas document delivery companies includes a royalty fee. Librarians may assume that such supply is lawful and not in breach of the parallel importing provisions of the Act.
- 7.5 Under the Copyright (Parallel Importation of Films and Onus of Proof) Amendment Act 2003, copyright in a film produced principally for cinematic release is infringed if a copy of the film is imported into New Zealand, other than for private or domestic use, within 9 months of first being made available to the public, whether in New Zealand or elsewhere. This restriction expires on 30 October 2008.

8. COPYING FOR THE COLLECTIONS OF OTHER LIBRARIES (s.54)

- 8.1 Librarians of prescribed libraries may copy for the collections of other prescribed libraries any part of or a complete book, including any artistic work in the book, provided that the librarian to whom the copy is supplied:
- has been unable to obtain it at an ordinary commercial price within the preceding six months;
 - keeps a record identifying the work copied;
 - permits inspection of the record by the copyright owner; and
 - on demand, pays equitable remuneration to the copyright owner for the work copied.
- 8.2 This provision applies only to books, not to serials, music scores or other types of library materials. It does allow for out-of-print books to be copied completely.
- 8.3 The requesting prescribed library must assure the supplying prescribed library in writing that these conditions have been complied with.

- 8.4 It is recommended that a sticker or stamp should be placed on the copy stating: “This copy has been made in accordance with the provisions of section 54 of the Copyright Act 1994”.
- 8.5 It is within the spirit of the Act for the librarian of a prescribed library to borrow an item from another library and make a copy of it, for the purposes of adding it to its own collections, provided that the conditions listed under paragraph 8.1 above have been met. The borrowing library should place a stamp or sticker on the copy stating that: “This copy has been made in accordance with the provisions of section 54 of the Copyright Act 1994”.
- 8.6 Non-prescribed libraries may not request or supply copies under this section.

9. COPYING FOR PRESERVATION OR REPLACEMENT (s.55)

- 9.1 Librarians of prescribed libraries may make a copy of any item (including books and journal issues) in their collections, provided that the copy is made for the purposes of preservation or replacement.
- 9.2 Librarians of prescribed libraries may also make a copy of any item in their collections for replacing in the collection of another prescribed library an item that has been lost, destroyed, or damaged.
- 9.3 These apply only where it is not reasonably practicable to purchase a copy of the item.
- 9.4 The requesting prescribed library must assure the supplying prescribed library in writing that the conditions listed in s.55 as outlined above have been complied with.
- 9.5 It is recommended that the supplying prescribed library should place a sticker or stamp on the copy stating: “This copy has been made in accordance with the provisions of section 55 of the Copyright Act 1994”.
- 9.6 It is within the spirit of the Act for the librarian of a prescribed library to borrow an item from another library and make a copy of it, for the purposes of preservation or replacement, provided that it is not reasonably practicable to purchase a copy of the item. The borrowing library should place a stamp or sticker on the copy stating that: “This copy has been made in accordance with the provisions of section 55 of the Copyright Act 1994”.
- 9.7 Non-prescribed libraries may not copy to replace items in their collection and may not ask other libraries to copy to replace items in their collection under this section.

10. COPYING FOR VERTICAL FILES

- 10.1 Vertical files may include only original works; copies made under s.54 (copying to add to the collections of other libraries); copies made under s.55 (copying for preservation or replacement); copies made by or within the licence of the copyright owner; or works out of copyright.
- 10.2 It is not permitted to make a second copy of a copy supplied through Interloan to a specific user and put it into a vertical file “just in case” another user may want it at a later date, since the item was requested for the user’s research or private study, not for the library or other users.
- 10.3 Materials held in vertical files may be copied by librarians of prescribed libraries under ss.51-56, or by individuals under s.43.

INTERLOANS

See the separate guidelines issued by the Joint Standing Committee on Interloan (Schedule 1, p.19-23).

PUBLIC COPYING

11. COPYING BY LIBRARIANS FOR THEIR USERS (ss.51, 52, 56)

- 11.1 Librarians of prescribed libraries may make for supply on the same occasion to any person one copy of:
- a “reasonable proportion” of any literary, dramatic or musical work, including any artistic work that appears within the proportion copied;
 - the whole of a periodical article; or
 - more than one article from the same issue of a periodical, if these relate to the same subject matter.
- 11.2 There must be a specific request to the librarian to provide a copy by the person wanting the copy.
- 11.3 Only one copy may be supplied to each person. It is permissible for named individuals to request through one person that a librarian of a prescribed library supply a single copy to each of them. But it is not permissible for librarians to make multiple copies and supply these to one person who then on-distributes the copies to other people, since under ss.51-52 librarians of prescribed libraries are authorised to supply only one copy to any person on the same occasion, and there must be a request by the person to the librarian to supply the copy.
- 11.4 The person to whom the copy is supplied must use the copy only for the purposes of research or private study. There is no obligation on the librarian to establish this before making the copy, but of course, if the librarian does know this, then a copy must not be made or supplied.

- 11.5 Any payment required must be no more than the total of the cost of production of the copy and a reasonable contribution to the general expenses of the library.
- 11.6 “Reasonable proportion” is not defined in the Act. However, guidance may be obtained from s.43 (fair dealing for research or private study) and s.44 (copying for educational purposes). In essence, it is the significance of what is copied that impacts on “reasonable proportion”, not simply the amount that is copied. It is especially important to note that there is no “10% rule”.
- 11.7 It is recommended that a sticker or stamp should be placed on the copy stating: “This copy is made for your private study or for your research. The Copyright Act 1994 prohibits the sale, letting for hire or copying of this copy”.
- 11.8 Librarians of prescribed libraries may make for supply to any person one copy of an unpublished work (for example, a thesis), provided that the copyright owner has not prohibited the copying. The conditions outlined above in paragraphs 11.4 and 11.5 apply.
- 11.9 Librarians of non-prescribed libraries may not make copies for users of their libraries.

12. CURRENT AWARENESS SERVICES

- 12.1 The copying of a contents page of a journal will not normally infringe copyright in that journal, because the copying is not substantial in terms of either the amount or the quality, in relation to the work as a whole. Where this is so, the copying may be done by anyone.
- 12.2 However, if the contents page contains detailed descriptions of the articles in the publication, it may be arguable that it is a more substantial part of the work, and copying may therefore be an infringement of copyright. Such pages would need to be considered on a case-by-case basis.
- 12.3 Librarians of prescribed libraries have a further defence (if needed) in that s.51 allows copying from a “published work” as long as only a “reasonable proportion” is copied. A journal issue or volume fits within the definition of a “published work”, and the contents pages would not normally be more than a “reasonable proportion”. The following conditions apply under s.51: the copying may be supplied “to any person” as long as it is one copy only, is to be used only for the purposes of research or private study, and any payment required is limited to the cost of production of the copy and a reasonable contribution to the general expenses of the library.
- 12.4 It is permissible to set up current awareness profiles for the regular distribution of contents pages to staff or library users.
- 12.5 It is also permissible to copy periodical articles and distribute these to library users as part of a current awareness service, provided that:
- there is a specific request to the librarian to provide a copy by the person wanting the copy;
 - no person is supplied on the same occasion with more than one copy;

- no person is supplied on the same occasion with copies of more than one article from the same issue of a periodical, unless the copies supplied all relate to the same subject-matter;
- any payment required is no more than the total of the cost of production of the copies and a reasonable contribution to the general expenses of the library;
- the persons to whom the copies are supplied use them only for the purposes of research or private study.

13. COPYING BY LIBRARY USERS FOR THEMSELVES (s.43)

- 13.1 “Fair dealing” with a work for the purposes of research or private study does not infringe copyright in the work. In determining what is fair, users must take into account:
- the purpose of the copying – it must be for research or for private study;
 - the nature and significance of what is copied, in relation to the work as a whole;
 - whether the work can be obtained within a reasonable time at an ordinary commercial price;
 - the effect on the potential market for, or value of, the work;
 - the amount and substantiality or importance of the part copied, taken in relation to the whole work.
- 13.2 Provided that these fair dealing guidelines are observed, it is permissible to copy the whole of a work, for example all of a periodical article.
- 13.3 All libraries which provide photocopying machines for users to do their own copying should provide information on copyright rules by means of notices which draw users’ attention to these conditions and offer a clear explanation of them. A sample notice is attached (see Appendix 1, p.24).
- 13.4 These provisions relate to all works that are capable of being copied, including pictures and sheet music.
- 13.5 Librarians should establish a compliance programme, to ensure that the conditions of the Act are being observed.

EDUCATIONAL COPYING

14. COPYING FOR EDUCATIONAL PURPOSES (ss.44, 46)

- 14.1 Under s.44(1), a copy of the whole or part of a literary, dramatic, musical or artistic work may be made by any means, provided that:
- the copying is done in the course of instruction (which includes preparation),
 - by or on behalf of the person giving a lesson at an educational establishment,
 - to assist the instructor in preparing and giving the lesson, and
 - no more than one copy is made on any one occasion.

- 14.2 Under s.44(2), multiple copies of the whole or part of a literary, dramatic, musical or artistic work may be made, provided that:
- the copying is done in the course of instruction (which includes preparation),
 - by the person who is giving the course or by a person who is receiving the instruction, and
 - the copying is not done by means of a reprographic process (that is, the copying is done by hand).
- 14.3 Under ss.44(3) and 44(4), multiple copies of part of a literary, dramatic, musical or artistic work may be made, provided that:
- the copying is done for an educational purpose, or by or on behalf of an educational establishment,
 - no charge is made for the supply of a copy to any student, and
 - no more than the greater of 3% or 3 pages are copied. If these conditions would result in the whole work being copied, then only 50% may be copied. Further, neither the part of the work copied under these conditions, nor any other part of the work, may be copied by or on behalf of anyone in that educational establishment within 14 days.
- 14.4 Section 46 details the stringent conditions under which anthologies may be compiled for educational use.
- 14.5 Licensing agreements (see paragraph 22 below) allow more generous conditions for multiple copying for educational purposes.
- 14.6 Public libraries copying materials for school projects may do so under ss.51-52 (copying by librarians), provided that the provisions of those sections of the Act are observed. In particular, it should be noted that there must be a specific request to the librarian to provide a copy by the person wanting the copy; and that it is not permissible under these sections to make multiple copies in expectation that there will be subsequent requests for copies by other students. Public libraries may also copy materials for school projects under the provisions of s.44(3) (copying for educational purposes) if the copying is done on behalf of an educational establishment (note the 3 per cent / 3 pages restriction).

15. COURSE RESERVE COLLECTIONS

- 15.1 The placing of photocopied materials which are in high demand in Course Reserve, Restricted Loan or Desk Copy collections is permitted if the photocopies are made in accordance with sections 44(3), 54 or 55 of the Act.
- 15.2 A teacher or lecturer may make multiple copies of part of a work for the collection under the terms of s.44(3) outlined in paragraph 14.3 above (note the 3 per cent / 3 pages restriction), or, where applicable, under the terms of any copyright licensing scheme. A copy may then be issued through the library's Course Reserve collection.
- 15.3 A librarian may also make copies under the same terms, as s.44(3) allows copying to be done "by or on behalf of an educational establishment".

- 15.4 A copy of a book to be added to the library's collections under s.54 (copying by librarians for collections of other libraries) may be placed in a Course Reserve collection, provided that the conditions outlined in paragraphs 8.1-8.6 above have been complied with.
- 15.5 Section 55 of the Act permits the librarian of a prescribed library to make a copy of any item in the collection for the purposes of "preserving or replacing that item by placing the copy in the collection of the library in addition to or in place of the item". If the reason that a copy of a periodical article or section of a book is placed in a library's Course Reserve collection is to reduce wear and tear on the original issue of the periodical or book and therefore help to preserve it, copies may be made under this section.
- 15.6 Lecturers at those educational establishments which belong to a copyright licensing scheme may, if the scheme permits, make enough print copies of a work to distribute to everyone in the class, or provide access electronically to authenticated students, thereby by-passing the Course Reserve collection altogether. Electronic access to journal articles and other materials for class use may also be permitted in accordance with the terms of the library's licence agreements with electronic database providers.
- 15.7 A copy of a work received on Interloan from another library may not be placed in a Course Reserve collection, if it was received for the research or private study of the teacher or lecturer, since the copy was supplied for the needs of the recipient, not of the recipient's students. However, it is permissible for a copy received on Interloan to be copied and included in print course-packs for students, provided that this copying is recorded in any sampling survey required under copyright licensing agreements.
- 15.8 A user who borrows a photocopy from a Course Reserve collection may not make a copy of it. If students are required to read copied materials, these should be issued or made available to them in print or electronic course-packs in accordance with copyright licensing schemes and licence agreements with electronic database providers.
- 15.9 Since copies received from an overseas document supply company will have been made in accordance with the copyright legislation of the source country, and a royalty fee included in the cost, the copies may be included in a library's Course Reserve collection, provided that no further copies are made by the library, and provided that any contractual stipulations received with the copies from the supplier are complied with.
- 15.10 It is always permissible for original books and issues of periodicals to be placed in the owning library's Course Reserve collection.
- 15.11 Any subsequent copying of such original works by library users must be in accordance with the relevant provisions of s.43, as outlined in paragraph 13.1 above.

16. RECORDING BY EDUCATIONAL ESTABLISHMENTS (ss.45, 48)

- 16.1 A film or film sound-track may be copied for the purposes of instruction, but only for a course on how to make films or film sound-tracks, and provided that no charge is made for the supply of the copy.
- 16.2 Likewise, a sound recording may be copied for the purposes of instruction, but only if the course relates to the learning of a language, or is conducted by correspondence, and provided that no charge is made for the supply of the copy.

- 16.3 Recordings or copies of recordings of broadcast or cable programmes may be made by or on behalf of an educational establishment for educational purposes, unless there is a licensing scheme available and the educational establishment knew that fact.
Screenrights: the Audio-Visual Copyright Society (PO Box 1248, Neutral Bay, NSW 2089, Australia) administers a licensing scheme for New Zealand educational institutions.

MULTI-MEDIA

17. FILMS AND SOUND RECORDINGS (ss.79, 81)

- 17.1 Prescribed libraries and educational establishments may rent sound recordings and films to any person as long as no profit is intended, and the work has been put into circulation with the licence of the copyright owner.
- 17.2 Libraries which are not established or conducted for profit may play sound recordings as part of their activities, provided that any admission charge is applied solely for the purposes of the library.
- 17.3 This exception does not apply to videos, broadcasts or cable programmes, the playing or showing of which in public is a restricted act (s.32(2)). However, the playing or showing of a sound recording, film, broadcast or cable programme for the purposes of instruction at an educational establishment is permitted under s.47.
- 17.4 Copyright ownership of a tape recorded interview or film rests with the person who has arranged to make the recording or film (s.5(2)(b)).

18. COMPUTER PROGRAMS (ss.79-80)

- 18.1 Computer programs such as CD-ROMs may include text, photographs, films, sound recordings, musical work, dramatic work, artistic work and literary work. They are compilations, having the same protection as literary works, and there may be separate copyright, owned by different people, in each of the components. There may also be restrictions on use (for example networking, printing, or using for commercial purposes) which must be complied with.
- 18.2 Prescribed libraries and educational establishments may rent computer programs under the same conditions as sound recordings and films, that is, as long as no profit is intended and the work has been put into circulation with the licence of the copyright owner.
- 18.3 Libraries may also loan out computer programs in the same way that they loan out books. However, to comply with licence agreements which prohibit networking or the use of the program by more than one simultaneous user, it may where appropriate be desirable for libraries to place a label on the disk pocket, requesting borrowers to remove the computer program from their system when they return it to the library.
- 18.4 A back-up copy of a computer program may be made by or on behalf of the lawful user of the program, in order to preserve the original in case it should be lost, destroyed or rendered unusable.

19. ELECTRONIC DATABASES

- 19.1 The issues for librarians in this context are the creation and use of electronic databases as a way of preserving library materials or extending multi-user access to such materials.
- 19.2 Electronic databases are compilations, a form of literary work (s.2), and are themselves protected as separate works, even if they contain only non-copyright or out-of-copyright material.
- 19.3 Publication, which means the issue of copies of a work to the public and which includes making a work available to the public by means of an electronic retrieval system (s.10(1)), is a restricted act (s.31). So, too, is including a work in a cable programme service (s.16(1)(f)), the definition of which (s.4) covers most electronic databases made available to the public, including Web sites.
- 19.4 The creation, networking or use of an electronic database will generally require permission from each affected copyright owner.
- 19.5 In using commercial electronic databases, copies may be made only in terms of the library's contract with the supplier of the database.
- 19.6 Unless there is specific permission to do so, it is illegal to include copyright material in a database which is accessed by third parties, which is provided "by way of rendering a service or providing amenities for others", or which is connected to any telecommunications system (s.4). It is therefore illegal to include copyright material such as periodical articles, extracts from books, or anthologies compiled for educational purposes in a database on the World Wide Web, even where access to the database is restricted to a particular group of users.
- 19.7 Permission to include copyright material in a database will need to cover a number of different actions:
- copying the work in the first place – scanning or re-keying are forms of copying;
 - making the work available by means of an electronic retrieval system;
 - performing, playing or showing the work in public;
 - including the work in a cable programme service.

20. COPYRIGHT AND THE INTERNET

- 20.1 There is copyright in most types of material on the Internet – email messages, postings to bulletin boards and news groups, articles and other publications, databases, Web sites, etc. The fact that something is posted on the Internet does not automatically give anyone the right to store, copy or disseminate it, unless the author or copyright owner has specifically granted permission or waived copyright.
- 20.2 It has been argued that viewing, and subsequently printing or down-loading, a work from the Internet breaches the copyright owner's exclusive right to reproduce the work (s.16). However, it has also been argued that the placing of material on the Internet without restrictions is an implied licence to view, download and/or print the material. When in doubt, it is wise to seek permission from the copyright owner.

- 20.3 There may be separate copyright in trade-marks, logos, photographs, illustrations, sound, video and images.
- 20.4 The provision of hypertext links from one Web site to another may breach copyright in trade-marks, logos or other material.
- 20.5 Defence against a charge of breach of copyright is likely to relate to what use was made of the copy: for example, whether it was for research or private study, and whether any financial gain was made from its use.
- 20.6 Librarians must ensure that any use of materials on the Internet complies with licence or contractual agreements.

GENERAL

21. MORAL RIGHTS (Part IV, ss.94-110)

- 21.1 Moral rights attach to authors rather than to copyright owners in general. They include the right to be identified as the author or director, the right to have works treated in a way which is not derogatory, and the right not to have works falsely attributed. The right to be identified must be asserted in writing.
- 21.2 Librarians should take care not to offend against these rights – for example, in library displays or in listing a work in an electronic retrieval system.
- 21.3 There is also a right to privacy in relation to photographs or films commissioned for private or domestic purposes. Copies may not be issued to the public or the work exhibited or shown in public without the consent of the commissioning person.

22. COPYRIGHT LICENSING (Part VIII, ss.147-168)

- 22.1 Part VIII of the Act sets out provisions for licensing schemes which allow for the copying of copyright works in a more generous way than is provided for under the Act. The underlying assumption is that copyright owners receive financial returns under the licence for any copying which is done by the parties to the licence.
- 22.2 Examples of such licences are the agreements which many New Zealand educational institutions have entered into with Copyright Licensing Ltd (PO Box 36 477, Northcote, Auckland 1309) which allow more generous conditions for multiple copying by reprographic means for educational purposes than are provided for in s.44(3) and s.46.
- 22.3 It appears to be the intention of the Act to encourage copyright licensing schemes.
- 22.4 Other licensing agreements are with Screenrights (covering off-air copying and recording of radio and television broadcasts), and Print Media Copyright Agency (covering copying from New Zealand newspapers).
- 22.5 Libraries do not need to enter into copyright licence agreements if the copying that they are undertaking is within the provisions of the Copyright Act.

- 22.6 If a library decides that copying which it wishes to undertake is not within the provisions of the Copyright Act, it should negotiate with an RRO (reproduction rights organisation) a copyright licence agreement which meets its needs.

23. CHARGING

- 23.1 For charging relating to Interloan, see section 8 of the separate guidelines issued by the Joint Standing Committee on Interloan (Schedule 1, p.23).
- 23.2 Any payment required for copying by librarians for their users must be no more than the total of the cost of production of the copy and a reasonable contribution to the general expenses of the library (ss.51-52, 56).
- 23.3 No direct charge may be made for the supply of copies made for educational purposes under s.44(3) or s.45.
- 23.4 Prescribed libraries and educational institutions may rent computer programs, sound recordings or films to any person as long as no profit is intended, and the work has been put into circulation with the licence of the copyright owner (s.79).
- 23.5 A rental charge for the loan of original printed works (e.g. books and periodicals) is not an infringing act and is therefore permitted.

24. OTHER RELEVANT SECTIONS OF THE ACT

- 24.1 Section 58, "Copying by Parliamentary Library", allows Parliamentary Library officers to copy a literary or dramatic work, and any artistic work included in that work, for any Member of Parliament, and to supply a recording of a broadcast or cable programme or a transcript of a recording, if it is required by any Member of Parliament in the course of his or her duties, provided that only one copy is supplied on the same occasion.
- 24.2 Sections 59-63 set out copyright exemptions for public administration, such as copying for parliamentary and judicial proceedings, royal commissions and statutory inquiries; copying of material open to public inspection or on official registers, and of material communicated to the Crown in the course of public business; and use of copyright material for services of the Crown.
- 24.3 Section 71, "Abstracts of scientific or technical articles", allows abstracts which accompany articles to be copied and issued to the public, or included in a database.

25. PENALTIES (ss.120-123, 131, 133)

- 25.1 The copyright owner may take civil action seeking remedies such as damages, injunctions, delivery up of infringing copies, and remedies otherwise available in respect of infringement of any other property right. An exclusive licensee may also have recourse to these remedies.
- 25.2 An infringement of a moral right is actionable by the person entitled to the right, by bringing civil proceedings for damages, or an injunction, or both.

- 25.3 If criminal liability is applicable and is established, there is provision for a maximum fine of \$150,000 or imprisonment for up to 5 years.
- 25.4 The managers of the institution to which the library belongs are also liable, if it is proved that any infringement took place with their authority or knowledge and they failed to take all reasonable steps to stop or prevent it.

26. COMPLIANCE

- 26.1 Librarians need to ensure that all their staff are familiar with and observe the requirements of the Copyright Act.
- 26.2 Libraries which provide photocopying machines for users to do their own photocopying should provide information on copyright rules by means of notices which draw users' attention to these conditions and offer a clear explanation of them. A sample notice is attached (see Appendix 1, p.24).
- 26.3 It is not, however, sufficient for librarians just to give instructions to library staff and users. They should also establish a compliance programme, with regular checks being made that the conditions of the Act are being observed, and with a record being kept of when and by whom these checks have been undertaken.
- 26.4 By this means librarians will be able to demonstrate on an ongoing basis that the Act is being complied with.

27. PROBLEM SOLVING TIPS

- 27.1 As an overall guide to the Copyright Act 1994 the following questions provide both an outline to the Act and a tool for establishing whether or not the activity which anyone is about to undertake is a breach of copyright:
- | | |
|--|----------|
| 1. Is it a copyright work? | s.14 |
| 2. Has the copyright expired? | ss.22-25 |
| 3. Is the activity in question a restricted act? | s.16 |
| 4. Is the activity in question a primary infringement? | ss.29-34 |
| 5. Is the activity in question a secondary infringement? | ss.35-39 |
| 6. Is the activity in question an exception to infringement? | ss.40-93 |
| 7. Who is the owner of the copyright? | s.21 |
| 8. What accommodation can be reached? | |

If the answers to questions 1 and 3 or 4 or 5 are yes, and if the answers to questions 2 and 6 are no, then you are infringing copyright and should look to questions 7 and 8 for a solution.¹

¹ Calhoun, D.C. Copyright for art librarians. Paper presented at ARLIS/ANZ Conference, Wellington, September 1994.

SCHEDULE 1 : IMPLICATIONS FOR INTERLOAN OF THE COPYRIGHT ACT 1994

These guidelines are intended to provide an explanation of the provisions of the Copyright Act 1994 which relate specifically to the sending of copies of material on Interloan between libraries in New Zealand, as these are understood at present by the Joint Standing Committee on Interloan. For a more detailed explanation, it is recommended that libraries should consult the Act and seek further advice from their legal advisers.

The guidelines do not relate to the lending or receipt of books or issues of serials on Interloan, which are unaffected by the Act and are therefore permitted.

1. PRESCRIBED AND NON-PRESCRIBED LIBRARIES (s.50)

- 1.1 The Copyright Act 1994 divides New Zealand libraries into prescribed libraries and non-prescribed libraries.
- 1.2 Libraries prescribed in the Act are:
 - The National Library
 - The Parliamentary Library
 - The District Law Society Libraries
 - Libraries maintained by educational establishments
 - Libraries maintained by government departments
 - Libraries maintained by local authorities
- 1.3 Libraries prescribed in the Copyright (General Matters) Regulations 1995 (SR 1995/146) are:
 - Libraries that are members of the Interloan Scheme jointly administered by the National Library of New Zealand and the New Zealand Library and Information Association : Te Rau Herenga o Aotearoa (now the Library and Information Association of New Zealand Aotearoa : Te Rau Herenga o Aotearoa).
- 1.4 Libraries prescribed in the Copyright (General Matters) Amendment Regulations 1998 (SR 1998/281) are:
 - Libraries of Crown entities, as that term is defined in section 2 of the Public Finance Act 1989.
- 1.5 Requesting-only libraries are not members of the Interloan Scheme.
- 1.6 Non-prescribed libraries are all other libraries, including overseas libraries.
- 1.7 Non-prescribed libraries, other than those conducted for profit, may apply to be classed as prescribed libraries (s.234).

2. THE SUPPLY OF COPIES ON INTERLOAN

- 2.1 The Copyright Act 1994 is concerned with the making of copies. It does not apply to the lending of original works, which continues to be permitted.
- 2.2 Copying by librarians is governed by sections 51-56 of the Act.
- 2.3 However, section 40 specifically states that these provisions “are to be construed independently of one another so that the fact that an act is not permitted by one provision does not mean that it is not permitted by another provision”. This means that librarians may choose under which section copying is done, provided that the provisions of that section are complied with.

3. INTERLOANS AND PRESCRIBED LIBRARIES

- 3.1 Sections 51, 52 and 53 of the Act allow librarians of a prescribed library to make for supply on the same occasion to any person, including a user of either a prescribed or non-prescribed library, one copy of:
- a “reasonable proportion” of any literary, dramatic or musical work, including any artistic work that appears within the proportion copied;
 - the whole of a periodical article; or
 - two articles from the same issue of a periodical, if these relate to the same subject-matter.
- 3.2 The user must have requested the library to which the copy is provided to supply that user with the copy for the purpose of research or for the purpose of private study.
- 3.3 “Reasonable proportion” is not defined in the Act. However, guidance may be obtained from s.43 (fair dealing for research or private study) and s.44 (copying for educational purposes). In essence, it is the significance of what is copied that impacts on “reasonable proportion”, not the simple amount that is copied. It is especially important to note that there is no “10% rule”.
- 3.4 The JSCI recommends that these procedures be followed:
- the request for a copy must be made by a named individual who personally wants the copy for private study or for research;
 - the person to whom the copy is supplied must have assured the requesting library that the use of the copy will be for private study or for research;
 - the copy must not subsequently be used for any purpose other than the person’s private study or research (for example, it must not be copied for the requesting library’s vertical file or collection);
 - the supplying prescribed library should place a sticker or stamp on the copy stating: “This copy is made for your private study or for your research. The Copyright Act 1994 prohibits the sale, letting for hire or copying of this copy”.

- 3.5 It is probably permissible for a library that supplies a copy by fax also to send by post to the requesting library the copy that was faxed, since the purpose of sending the copy by post is only to ensure that the requester receives a higher-quality copy than faxed transmission often allows.
- 3.6 There is no requirement to keep records of Interloan requests, other than in the special circumstance of copying for the collections of other libraries under s.54 (see paragraph 6.1 below), which requires the librarian to whom the copy is supplied to keep a record identifying the work copied.

4. INTERLOANS AND NON-PRESCRIBED LIBRARIES

- 4.1 A non-prescribed library may not make copies for or supply copies to any library or person, where the copies are made from works still in copyright and for which the copyright owners have not expressly permitted the making of copies.
- 4.2 A non-prescribed library may supply only the original work (not a photocopy) to another library or person for the purpose of Interloan.
- 4.3 Where the original is received by a prescribed library, it may be copied by that library for supply to a person for the purpose of private study or of research under the provisions listed in paragraph 3.1 above.
- 4.4 The JSCI recommends that these procedures be followed:
- the receiving prescribed library should make any copy immediately upon receipt of the original and return the original immediately;
 - the prescribed library which makes the copy should place a sticker or stamp on the copy stating: “This copy is made for your private study or for your research. The Copyright Act 1994 prohibits the sale, letting for hire or copying of this copy”;
 - where the original is received by a non-prescribed library, the user who has requested the item (not the library) may make a copy for him or herself provided that the provisions of s.43 (copying for research or private study) are observed. This copy should be made immediately upon receipt of the original which should then be returned immediately.

5. INTERLOANS AND OVERSEAS LIBRARIES

- 5.1 There is no restriction on the supply of copies obtained from overseas, provided (in general) that the copies were made in compliance with the copyright legislation of the source country, and that no limiting copyright license covering the material copied exists in New Zealand.
- 5.2 If a copy is obtained from overseas, any instructions from the supplier should be adhered to.
- 5.3 The supply of any copy to an overseas library may be done only within the recommendations regarding non-prescribed libraries outlined above.

6. COPYING FOR THE COLLECTIONS OF OTHER LIBRARIES (s.54)

6.1 Librarians of prescribed libraries may copy for the collections of other prescribed libraries any part of or a complete book, including any artistic work in the book, provided that the librarian to whom the copy is supplied:

- has been unable to obtain it at an ordinary commercial price within the preceding six months;
- keeps a record identifying the work copied;
- permits inspection of the record by the copyright owner; and
- on demand, pays equitable remuneration to the copyright owner for the work copied.

6.2 This provision applies only to books.

6.3 The JSCI recommends that these procedures be followed:

- the requesting prescribed library must assure the supplying prescribed library in writing that the conditions listed in s54 as outlined above have been complied with;
- the supplying prescribed library should place a sticker or stamp on the copy stating: “This copy has been made in accordance with the provisions of section 54 of the Copyright Act 1994”.

6.4 It is within the spirit of the Act for the librarian of a prescribed library to borrow an item from another library and make a copy of it, for the purposes of adding it to its own collections, provided that the conditions listed under paragraph 6.1 above have been met. The borrowing library should place a stamp or sticker on the copy stating that: “This copy has been made in accordance with the provisions of section 54 of the Copyright Act 1994”.

6.5 Non-prescribed libraries may not request or supply copies under this section.

7. COPYING FOR PRESERVATION OR REPLACEMENT (s.55)

7.1 Librarians of prescribed libraries may make a copy of any item (including books and journal issues) in their collections, provided that the copy is made for the purposes of preservation or replacement.

7.2 Librarians of prescribed libraries may also make a copy of any item in their collections for replacing in the collection of another prescribed library an item that has been lost, destroyed, or damaged.

7.3 These apply only where it is not reasonably practicable to purchase a copy of the item.

7.4 The JSCI recommends that these procedures be followed:

- the requesting prescribed library must assure the supplying prescribed library in writing that the conditions listed in s.55 as outlined above have been complied with;

- the supplying prescribed library should place a sticker or stamp on the copy stating that: “This copy has been made in accordance with the provisions of section 55 of the Copyright Act 1994”.
- 7.5 It is within the spirit of the Act for the librarian of a prescribed library to borrow an item from another library and make a copy of it, for the purposes of preservation or replacement, provided that it is not reasonably practicable to purchase a copy of the item. The borrowing library should place a stamp or sticker on the copy stating that: “This copy has been made in accordance with the provisions of section 55 of the Copyright Act 1994”.
- 7.6 Non-prescribed libraries may not copy to replace items in their collection and may not ask other libraries to copy to replace items in their collection under this section.

8. CHARGING FOR INTERLOAN

- 8.1 The Copyright Act 1994 does not prohibit charging for the supply of a copy. Generally, charges are limited by the Act to not more than the total of the cost of production of the copy and a reasonable contribution to the general expenses of the library. The charge is payable by the end-user, but may be paid by someone who is not the end-user, including the requesting library. The JSCI recommends that any charging for supply of Interloans be limited as above.
- 8.2 Charges may also be levied to cover premium services such as urgent delivery or supply by fax.
- 8.3 There is no prohibition on charging for copyright-cleared copies obtained from overseas or where any copyright right held by the library otherwise permits charging.
- 8.4 A prescribed library may rent computer programs, sound recordings, films and videos to any person where the rental charge is non-profit-making (s.79). Effecting this rental through Interloan is not prohibited.
- 8.5 The JSCI believes that the recommended charges within the current Interloan Scheme are in accordance with these provisions.

Joint Standing Committee on Interloan

COPYRIGHT ACT 1994

WARNING

Copyright owners are entitled to take legal action against persons who infringe their copyright. Any copying of copyright material not expressly permitted by the Copyright Act 1994 may infringe copyright.

**THIS LIBRARY FORBIDS AND DOES NOT AUTHORISE
THE USE OF ITS PHOTOCOPYING MACHINES
FOR ANY PURPOSE WHICH CONSTITUTES
AN INFRINGEMENT OF COPYRIGHT**

There is copyright in all literary, dramatic, musical and artistic work until 50 years after the death of the author, or for a work of unknown authorship 50 years after the work has been made publicly available, or for typographical arrangements 25 years after an edition was published. There is copyright in most Crown publications until 100 years after the work was made.

COPYING WHICH MAY BE DONE ON THIS MACHINE

- ❑ Copies may be made if the copying is “fair dealing” (section 43), that is:
 - the copying is done solely for a person’s research or private study, *and*
 - the person doing the copying takes into account the nature and purpose of the copying, *and*
 - the copying is done because the work could not be obtained within a reasonable time by purchase at an ordinary commercial price, *and*
 - the copying will not be detrimental to the potential market for, or value of, the work, *and*
 - the copying takes into account the amount and substantiality of the part copied, taken in relation to the work as a whole (it is unlikely to be fair dealing if you copy a whole work, a whole chapter of a work, a summary, or the whole or greater part of the treatment of a particular topic in a work), *and*
 - only one copy is made of the same work or the same part of a work on any one occasion.
- ❑ Copies may be made of works where the copyright has expired.
- ❑ Abstracts accompanying scientific and technical articles in periodicals may be copied (section 71).

This photocopying machine is made available on the express condition that users will pay the Library for any loss suffered in respect of any claim made against it for breach of copyright.

It is your personal responsibility to comply with copyright law.

The Copyright Act 1994 is available in this Library. Please ask.

APPENDIX 2 : COPYRIGHT ACT 1994 : SUMMARY TABLES
by Cathie Harrison

Note: The information in these tables is necessarily highly abbreviated and of a very generalized nature. There may be additional factors that are relevant as to whether or not something is an infringement of copyright.

If you need further information, please contact your lawyer.

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
<p>LITERARY</p> <p>Books, newspapers, periodicals, theses, poems, song lyrics, letters, manuals, catalogues, compilations, multi-media such as CD-ROMs, computer programs *, electronic works in any format, etc.</p> <p>* set out separately below</p>	<p>Any work, other than a dramatic or musical work, that is written, spoken or sung; includes a table or compilation, and a computer program (s.2)</p>	<p>Author i.e. creator; or (subject to agreement to contrary) employer if made in course of employment (s.21)</p> <p>For computer-generated works, the person making the arrangements for creation (s.5(a))</p>	<p>50 years from death of author</p> <p>For works of unknown authorship: 50 years from when first made available to public</p> <p>For computer-generated works: 50 years from when work made (s.22)</p> <p>For older works see First Schedule clauses 17-19</p>	<p>Copying the work, i.e. reproducing or recording in any material form, including storing the work in any medium by any means (defined s.2)</p> <p>Issuing copies to the public (defined s.9)</p> <p>Performing in public</p> <p>Broadcasting</p> <p>Including in a cable programme service</p> <p>Making an adaptation</p> <p>Doing re an adaptation the above acts</p> <p>(ss.16 & 30-34)</p>	<p>s.41: incidental copying</p> <p>s.42: fair dealing for criticism or review, or for reporting current events</p> <p>s.43: fair dealing for research or private study</p> <p>s.44: copying for certain educational purposes</p> <p>s.45: copying films and sound recordings for certain educational purposes</p> <p>s.46: anthologies for educational use</p> <p>s.47: performing, playing or showing work at "educational establishment" for purposes of instruction</p> <p>s.48: recording of broadcasts and cable programmes by "educational establishment" for educational purposes</p> <p>s.49: things done for purposes of examinations</p> <p>Prescribed Libraries</p> <p>s.51: copy reasonable proportion of published work for research or private study</p> <p>s.52: copy article for research or private study</p> <p>s.53: as above, to user of other prescribed library for research or private study</p> <p>s.54: copy for collection of other prescribed library when unable to obtain</p> <p>s.55: copy to preserve or replace work</p> <p>s.56: copy unpublished work for research or private study</p> <p>s.67: copy anonymous or pseudonymous work where reasonable to assume copyright has expired</p>

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
LITERARY (continued)					s.71: copy or issue to public abstract of scientific or technical article s.72: make sound recording of performance of song for certain archives

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
COMPUTER PROGRAMS	Not defined	Subject to agreement to contrary, person who commissions (and pays or agrees to pay for) the making of a computer program (s.21)	<p>50 years from death of author</p> <p>For works of unknown authorship: 50 years from when first made available to public</p> <p>For computer-generated works: 50 years from when work made (s.22)</p> <p>For older works see First Schedule clauses 17-19</p>	<p>Copying the work, i.e. reproducing or recording in any material form, including storing the work in any medium by any means (defined s.2)</p> <p>Issuing copies to the public (defined s.9)</p> <p>Performing in public</p> <p>Broadcasting</p> <p>Including in a cable programme service</p> <p>Making an adaptation</p> <p>Doing re an adaptation the above acts</p> <p>(ss.16 & 30-34)</p>	<p>s.43: fair dealing for research or private study</p> <p>s.44: copying for certain educational purposes</p> <p>s.49: things done for purposes of examinations</p> <p>s.55: copy by prescribed library to preserve or replace work</p> <p>s.56: copy unpublished work by prescribed library for research or private study</p> <p>s.79: rental by an "educational establishment" or prescribed library</p> <p>s.80: back-up copy of computer program</p>

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
<p>DRAMATIC</p> <p>Plays, operas, screenplays, choreographic works, etc.</p>	<p>Includes a work of dance, mime, scenario or script for a film (s.2)</p>	<p>Author i.e. creator; or (subject to agreement to contrary) employer if made in course of employment (s.21)</p> <p>For computer-generated works, the person making the arrangements for creation (s.5(a))</p>	<p>50 years from death of author</p> <p>For works of unknown authorship: 50 years from when first made available to public</p> <p>For computer-generated works: 50 years from when work made (s.22)</p> <p>For older works see First Schedule clauses 17-19</p>	<p>Copying the work, i.e. reproducing or recording in any material form, including storing the work in any medium by any means (defined s.2)</p> <p>Issuing copies to the public (defined s.9)</p> <p>Performing in public</p> <p>Broadcasting</p> <p>Including in a cable programme service</p> <p>Making an adaptation</p> <p>Doing re an adaptation the above acts</p> <p>(ss.16 & 30-34)</p>	<p>s.41: incidental copying</p> <p>s.42: fair dealing for criticism or review, or for reporting current events</p> <p>s.43: fair dealing for research or private study</p> <p>s.44: copying for certain educational purposes</p> <p>s.45: copying films and sound recordings for certain educational purposes</p> <p>s.46: anthologies for educational use</p> <p>s.47: performing, playing or showing work at "educational establishment" for purposes of instruction</p> <p>s.48: recording of broadcasts and cable programmes by "educational establishment" for educational purposes</p> <p>s.49: things done for purposes of examinations</p> <p>Prescribed Libraries</p> <p>s.51: copy reasonable proportion of published work for research or private study</p> <p>s.52: copy article for research or private study</p> <p>s.53: as above, to user of other prescribed library for research or private study</p> <p>s.54: copy for collection of other prescribed library when unable to obtain</p> <p>s.55: copy to preserve or replace work</p> <p>s.56: copy unpublished work for research or private study</p>

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
DRAMATIC (continued)					s.67: copy anonymous or pseudonymous work where reasonable to assume copyright has expired s.70: public reading of reasonable extract s.71: copy or issue to public abstract of scientific or technical article

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
<p>MUSICAL</p> <p>Music and songs e.g. composers' scores</p>	<p>Music, exclusive of any words intended to be sung or spoken with the music or any actions intended to be performed with the music (s.2)</p>	<p>Author i.e. creator; or (subject to agreement to contrary) employer if made in course of employment (s.21)</p> <p>For computer-generated works, the person making the arrangements for creation (s.5(a))</p>	<p>50 years from death of author</p> <p>For works of unknown authorship: 50 years from when first made available to public</p> <p>For computer-generated works: 50 years from when work made (s.22)</p> <p>For older works see First Schedule clauses 17-19</p>	<p>Copying the work, i.e. reproducing or recording in any material form, including storing the work in any medium by any means (defined s.2)</p> <p>Issuing copies to the public (defined s.9)</p> <p>Performing in public</p> <p>Broadcasting</p> <p>Including in a cable programme service</p> <p>Making an adaptation</p> <p>Doing re an adaptation the above acts</p> <p>(ss.16 & 30-34)</p>	<p>s.41: incidental copying</p> <p>s.42: fair dealing for criticism or review, or for reporting current events</p> <p>s.43: fair dealing for research or private study</p> <p>s.44: copying for certain educational purposes</p> <p>s.45: copying films and sound recordings for certain educational purposes</p> <p>s.46: anthologies for educational use</p> <p>s.47: performing, playing or showing work at "educational establishment" for purposes of instruction</p> <p>s.48: recording of broadcasts and cable programmes by "educational establishment" for educational purposes</p> <p>s.49: things done for purposes of examinations</p> <p>Prescribed Libraries</p> <p>s.51: copy reasonable proportion of published work for research or private study</p> <p>s.52: copy article for research or private study</p> <p>s.53: as above, to user of other prescribed library for research or private study</p> <p>s.54: copy for collection of other prescribed library when unable to obtain</p> <p>s.55: copy to preserve or replace work</p> <p>s.56: copy unpublished work for research or private study</p>

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
MUSICAL (continued)					s.67: copy anonymous or pseudonymous work where reasonable to assume copyright has expired s.72: make sound recording of performance of song for certain archives

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
<p>ARTISTIC</p> <p>Paintings, drawings, maps, plans, charts, engravings, photographs, sculpture, craft works, etc.</p>	<p>A graphic work, photograph, sculpture, collage or model, irrespective of artistic quality; a work of architecture, being a building or a model for a building; or a work of artistic craftsmanship (s.2)</p>	<p>Author i.e. creator; or (subject to agreement to contrary) employer if made in course of employment; or person who commissions (and pays or agrees to pay for) the taking of a photograph or the making of a painting, drawing, diagram, map, chart, plan, engraving, model or sculpture (s.21)</p> <p>For computer-generated works, the person making the arrangements for creation (s.5(a))</p>	<p>50 years from death of author</p> <p>For works of unknown authorship: 50 years from when first made available to public</p> <p>For computer-generated works: 50 years from when work made (s.22)</p> <p>For older works see First Schedule clauses 17-19</p>	<p>Copying the work, i.e. reproducing or recording in any material form, including storing the work in any medium by any means (defined s.2)</p> <p>Issuing copies to the public (defined s.9)</p> <p>Broadcasting</p> <p>Including in a cable programme service (ss.16 & 30-33)</p>	<p>s.41: incidental copying</p> <p>s.42: fair dealing for criticism or review, or for reporting current events</p> <p>s.43: fair dealing for research or private study</p> <p>s.44: copying for certain educational purposes</p> <p>s.45: copying films and sound recordings for certain educational purposes</p> <p>s.48: recording of broadcasts and cable programmes by "educational establishment" for educational purposes</p> <p>s.49: things done for purposes of examinations</p> <p>Prescribed Libraries</p> <p>s.51: include any artistic work that appears in the proportion copied of a published literary, dramatic or musical work for research or private study</p> <p>s.52: copy article for research or private study, including any artistic work</p> <p>s.53: as above, to user of other prescribed library for research or private study</p> <p>s.54: include artistic work in copy of literary, dramatic or musical work copied for collection of other prescribed library when unable to obtain</p> <p>s.55: copy to preserve or replace work</p> <p>s.56: copy unpublished work for research or private study</p> <p>s.67: copy anonymous or pseudonymous work where reasonable to assume copyright has expired</p> <p>s.73: copy by photographing, filming etc sculptures or works of artistic craftsmanship in public place/premises open to public</p>

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
<p>SOUND RECORDINGS</p> <p>Records, tapes, compact discs, etc.</p>	<p>A recording of sounds, from which the sounds may be reproduced, or a recording of the whole or any part of a literary, dramatic or musical work, from which the sounds reproducing the work or part may be reproduced, regardless of medium or the method (s.2)</p>	<p>The author -- the person by whom the arrangements necessary for the making of the sound recording are undertaken (s.5(b)); or the person who commissions (and pays or agrees to pay for) the making of a sound recording (s.21)</p>	<p>50 years from making, or 50 years from when first made available to the public (s.23)</p>	<p>Copying the work, i.e. reproducing or recording in any material form (defined s.2)</p> <p>Issuing copies to the public (defined s.9)</p> <p>Playing in public</p> <p>Broadcasting</p> <p>Including in a cable programme service (ss.16 & 30-33)</p>	<p>s.41: incidental copying</p> <p>s.42: fair dealing for criticism or review, or for reporting current events</p> <p>s.43: fair dealing for research or private study</p> <p>Education</p> <p>s.45: copying films and sound recordings for certain educational purposes</p> <p>s.47: playing ... sound recording at "educational establishment" for purposes of instruction</p> <p>s.48: recording of broadcasts and cable programmes by "educational establishment" for educational purposes</p> <p>s.49: things done for purposes of examinations</p> <p>Prescribed Libraries</p> <p>s.55: copy to preserve or replace work</p> <p>s.56: copy unpublished work for research or private study</p> <p>s.70: making of a sound recording of a public reading</p> <p>s.79: rental by an "educational establishment" or prescribed library</p> <p>s.81: non-profit club or society play a sound recording</p>

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
<p>FILMS</p> <p>Movies, videos and electronic images</p>	<p>A recording on any medium from which a moving image may by any means be produced (s.2)</p>	<p>The author -- the person by whom the arrangements necessary for the making of the film are undertaken (s.5(b)); or the person who commissions (and pays or agrees to pay for) the making of a film</p>	<p>50 years from making, or 50 years from when first made available to the public (s.23)</p>	<p>Copying the work, i.e. reproducing or recording in any material form, including the making of a photograph of a film (defined s.2)</p> <p>Issuing copies to the public (defined s.9)</p> <p>Showing in public</p> <p>Broadcasting</p> <p>Including in a cable programme service</p> <p>(ss.16 & 30-33)</p>	<p>s.41: incidental copying</p> <p>s.42: fair dealing for criticism or review, or for reporting current events</p> <p>s.43: fair dealing for research or private study</p> <p>Education</p> <p>s.45: copying films and sound recordings for certain educational purposes</p> <p>s.47: showing ... film at "educational establishment" for purposes of instruction</p> <p>s.48: recording of broadcasts and cable programmes by "educational establishment" for educational purposes</p> <p>s.49: things done for purposes of examinations</p> <p>Prescribed Libraries</p> <p>s.55: copy to preserve or replace work</p> <p>s.56: copy unpublished work for research or private study</p> <p>s.79: rental by an "educational establishment" or prescribed library</p>

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
<p>BROADCASTS</p> <p>Radio and TV</p>	<p>A transmission of a programme by wireless communication, where the transmission is capable of being lawfully received by members of the public or for presentation to members of the public (s.2)</p>	<p>The person who makes the broadcast (s.5(c))</p>	<p>50 years from making (s.24)</p>	<p>Copying the work, i.e. reproducing or recording in any material form, including the making of a photograph of a broadcast (defined s.2)</p> <p>Issuing copies to the public (defined s.9)</p> <p>Broadcasting</p> <p>Including in a cable programme service (ss.16 & 30-33)</p>	<p>s.41: incidental copying</p> <p>s.42: fair dealing for criticism or review, or for reporting current events</p> <p>s.43: fair dealing for research or private study</p> <p>Education</p> <p>s.45: copying ... broadcasts for certain educational purposes</p> <p>s.47: playing or showing broadcast at "educational establishment" for purposes of instruction</p> <p>s.48: recording of broadcasts and cable programmes by "educational establishment" for educational purposes</p> <p>s.49: things done for purposes of examinations</p> <p>Prescribed Libraries</p> <p>s.55: copy to preserve or replace work</p> <p>s.56: copy unpublished work for research or private study</p> <p>s.70: broadcasting public reading</p> <p>s.84: recording for private and domestic purpose</p> <p>s.87: free public playing</p> <p>s.90: recording for certain archival purposes</p> <p>s.91: recording and making transcripts by media monitors</p>

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
<p>CABLE PROGRAMMES</p> <p>Includes cable TV and some online library services</p>	<p>Any item included in a cable programme service, which is a transmission service where the transmission is for reception at two or more places in response to requests by different users or for presentation to members of the public, with exceptions (s.4)</p>	<p>The person providing the cable programme service in which the programme is included (s.5(d))</p>	<p>50 years from when the cable programme was included in a cable programme service (s.24)</p>	<p>Copying the work, i.e. reproducing or recording in any material form, including the making of a photograph of a cable programme (defined s.2)</p> <p>Issuing copies to the public (defined s.9)</p> <p>Broadcasting</p> <p>Including in a cable programme service (ss.16 & 30-33)</p>	<p>s.41: incidental copying</p> <p>s.42: fair dealing for criticism or review, or for reporting current events</p> <p>s.43: fair dealing for research or private study</p> <p>Education</p> <p>s.45: copying ... cable programmes for certain educational purposes</p> <p>s.47: playing or showing cable programme at "educational establishment" for purposes of instruction</p> <p>s.48: recording of broadcasts and cable programmes by "educational establishment" for educational purposes</p> <p>s.49: things done for purposes of examinations</p> <p>Prescribed Libraries</p> <p>s.55: copy to preserve or replace work</p> <p>s.56: copy unpublished work for research or private study</p> <p>s.70: including public reading in cable programme</p> <p>s.84: recording for private and domestic purpose</p> <p>s.87: free public playing</p> <p>s.90: recording for certain archival purposes</p> <p>s.91: recording and making transcripts by media monitors</p>

TYPE OF WORK	DEFINITION	FIRST OWNER	TERM OF COPYRIGHT	RESTRICTED ACTS	ACTS PERMITTED (subject to certain conditions)
TYPOGRAPHICAL ARRANGEMENTS OF PUBLISHED EDITIONS	<p>"Typographical arrangement" not defined in the Act -- it is the particular way a work is laid out</p> <p>"Published edition" means the published edition of the whole or any part of one or more literary, dramatic or musical works</p>	<p>The publisher (s.5(e))</p>	<p>25 years from publication (s.25)</p>	<p>Copying the work, i.e. reproducing in any form (defined s.2)</p> <p>Issuing copies to the public (defined s.9)</p>	<p>s.41: incidental copying</p> <p>s.42: fair dealing for criticism or review, or for reporting current events</p> <p>s.43: fair dealing for research or private study</p> <p>s.44: copying for certain educational purposes</p> <p>s.48: recording of broadcasts and cable programmes by "educational establishment" for educational purposes</p> <p>s.49: things done for purposes of examinations</p> <p>Prescribed Libraries</p> <p>s.51: copy reasonable proportion of published work for research or private study</p> <p>s.52: copy article for research or private study</p> <p>s.53: as above, to user of other prescribed library for research or private study</p> <p>s.54: copy for collection of other prescribed library when unable to obtain</p> <p>s.55: copy by prescribed library to preserve or replace work</p> <p>s.56: copy unpublished work for research or private study</p>

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NOTE: References to Schedule 1 : Implications for Interloan are in *bold italics*.

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