

## COPYRIGHT INFORMATION FOR POSTGRADUATES

### What is copyright?

Copyright is the exclusive right of the creator of an original work to reproduce, publish, communicate, and adapt that work. These rights may be transferred to other parties.

In Australia copyright does not require any registration of a work; protection is automatic (under the Copyright Act 1968) when a work takes material form.

Copyright protection does not apply to ideas.

### What are 'works'?

'Works' protected by the Act include:

- literary - most fictional and non-fictional written material, including tables, computer programmes, and instruction manuals;
- dramatic - play scripts, film scripts, choreographic scores, and scenarios;
- musical - scores or other notations (lyrics are protected as literary works);
- artistic - paintings, sculptures, etc., technical drawings and models, photographs, diagrams, and buildings;
- cinematograph film - the visual images and sound track of a film, including those available on video, DVD, cd-rom, or a website;
- sound recordings - any analogue, digital, or electronic recording, including MPEG or MP3 files;
- published editions of works - the way in which an individual edition of a work is presented, including typesetting etc.

The Act provides exemptions to an owner's exclusive rights in order to avoid infringement of the law when using copyright materials under certain circumstances, such as those of research, critique, and education. In addition there is no copyright infringement if:

- the work is in the public domain;
- you obtain permission from the copyright owner;
- you copy the material as a 'fair dealing for the purpose of research and study'; or as
- a 'fair dealing for critique or review'.

### Copyright ownership in oral histories and interviews

There are alternative possible owners – interviewer or interviewee(s).

The *interviewer* could be the copyright owner – depending on their input in structuring of the interview/discussion, etc., and the degree of their commentary or interpretation.

However, in the case of a straightforward recording of an oral history, the owner is more likely to be *interviewee* – morally if not legally – because it is 'their' story even though there may be no material 'work' prior to the recording.

Best practice is to clarify and confirm copyright arrangements with interviewees as early as possible.

## USING COPYRIGHT PROTECTED WORKS IN THE RESEARCH PROCESS

In broad terms, the most important elements of © legislation that are relevant to you are: [Fair Dealing](#) and [Reasonable Portions](#).

**Fair Dealing for the purpose of research and study** – allows an individual to make a copy of a ‘reasonable portion’ of a copyrighted work for their own research and study without seeking permission or making any royalty payment – although full acknowledgement must be made (unless author has specified otherwise).

A ‘**reasonable portion**’ of a work for to be copied for your own research consists of, for instance: 1 chapter/10% of a monograph; 1 article from any one issue of a journal (more, if the subsequent articles are required for the same research as the first); or a work of up to 15 pages from an anthology.

It is also considered ‘reasonable’ to reproduce ‘artistic works’ (including maps, diagrams, graphs, etc) that accompany and illustrate/explain a text being copied under Fair Dealing.

**However, if:**

- a work is out of print (for at least 30 days) and a new copy is unobtainable at an ordinary commercial price you may be able to copy more than the ‘reasonable amount’;
- you have permission from the © owner you may be able to copy more – but this is more relevant when you are asking permission to ‘communicate’ i.e. publish;
- the work is in the Public Domain you may copy as much as you need;
- a work is published under one of the Creative Commons licences you may copy and use the material as defined under the terms of the particular licence.

## USING COPYRIGHT PROTECTED WORKS IN YOUR THESIS

**Fair Dealing for the Purpose of Criticism or Review** – this is the exemption that you may be able to rely on if you are reproducing © material in your thesis, depending on the reason for your use.

You cannot rely on this provision to use copyright materials in order to augment your argument or provide information/illustration – your use must be for the purpose of criticism or review, whether of the work to be copied or of another work.

No ‘reasonable portion’ is defined in this section of the Act - it could be the whole or part of a work; what is relevant is that there is “a genuine attempt at criticism or review” (© Act, p. 109) “...whether of that work or of another work, and a sufficient acknowledgement of the work is made” (s. 41). (NB this provision does not apply to unpublished material)

### **Using copyright protected works in the digital version of your thesis**

Your thesis will be published electronically through the Australian Digital Thesis (ADT) project.

Despite the provision for a Fair Dealing for the Purpose of Criticism or Review, because there is no definition of ‘substantial’ in the Act, **it is ADT policy that any copyright protected material (beyond brief quotations) for which you do not have permission will have to be removed or otherwise restricted before depositing the digital version of your thesis.**

**You must have written permission from the copyright owner(s) to communicate a ‘substantial portion’ of any copyright work, especially online. It is your responsibility to seek clearance or permission if your thesis contains material subject to copyright.**

### Seeking permission to use copyright protected materials

Copyright may be held by more than one person or entity; when asking for permission to reproduce or communicate a work, or a portion of a work, make sure that you receive permission from all the relevant parties. Ask the addressee if they are the sole owner or if there are others from whom permission is required.

There is a permission letter template for research degree candidates on the © website in Letters, Forms, and Guides: [www.murdoch.edu.au/copyright/forms.html](http://www.murdoch.edu.au/copyright/forms.html).

Copies of any permissions granted should be lodged with your thesis.

**Remember** that if a thesis contains content subject to copyright held by others - commercial concerns, individuals, publishers, institutions - it is up to you to seek clearance or permission.

Please be aware of this requirement from the start of your candidature.

If permission is not obtainable, and/or if a thesis needs to be restricted for reasons of sensitivity, patents, etc., ADT provides that you may suppress such materials when depositing the digital version.

**NB** Although based on UK copyright legislation, a useful discussion of some of the issues involved in the digitisation of theses can be found on the JISC (Joint Information Systems Committee) website: <http://www.jisclegal.ac.uk/publications/ethesesandrew.htm#15#15> )

### USING COPYRIGHT PROTECTED WORKS IN A CONFERENCE PAPER OR JOURNAL ARTICLE

You may be able to rely on **Fair Dealing for criticism and review** – if that is actually what you are doing; but not if you are using the work simply to support or illustrate your own argument – then you need copyright owner's permission for anything more than a brief quotation.

### COPYRIGHT IN YOUR OWN WORK

You retain copyright, and moral rights, in your own work; however, s.51.2 of the Copyright Act will allow the reproduction of all or part of your thesis by another individual for the purposes of their own study and research.

For Murdoch University's policy on copyright in the work of students and staff see: <http://www.murdoch.edu.au/admin/legsln/regs/intellectualprop.html>

### QUERIES?

The University's Copyright Coordinator, Kate Makowiecka: [copyright@murdoch.edu.au](mailto:copyright@murdoch.edu.au)  
Australasian Digital Theses Program: <http://adt.caul.edu.au/>  
Murdoch University Digital Theses: <http://www.lib.murdoch.edu.au/adt/index.html>  
Murdoch University copyright site: [www.murdoch.edu.au/copyright](http://www.murdoch.edu.au/copyright)