

## Copyright changes effective 2007

The *Copyright Amendment Act 2006* has amended the Copyright Act in a number of ways that will significantly affect educational institutions. In general, the changes, which are now in force, are favorable to the education and library sectors. Some changes to copying by individuals are also worthy of note.

Here is a summary of some of the provisions of the Amendment Act that may impact on the staff and students of the University of New England as individual consumers, researchers and employees.

### Private copying provisions

The amendments permit individuals to do the following for private use:

- Time-shifting, such as recording from TV and radio for use at a time more convenient than the time of the broadcast. Conditions include: that the copy should be used only by the household making the copy, and should be retained for a limited time, not for the purposes of building up a collection for repeat viewings.
- Space-shifting of recorded music, so that a person who owns a copy of a sound recording, such as a CD, may make a copy of that recording to play on a device such as a personal mp3 player that he or she owns. The CD from which the recording was made should be kept, not be traded or sold.
- Format-shifting: copying from one 'format' to another for private use, allowing individuals who own certain types of material to copy that material into a different form. For example, an individual may now copy a book or periodical by scanning it for viewing on a computer screen, or print an electronic photograph.

### Parody and Satire - Section 40

A new fair dealing exception has been created for parody and satire. 'Parody' and 'satire' are not defined in the Amendments, so standard dictionary definitions are likely to apply.

### 'Special case' exception - Section 200AB

This new exception may be relied upon for maintaining or operating a library or archives; giving educational instruction; and obtaining a copy of material in a form which assists a person with a disability. It enables copyright material to be used for certain socially useful purposes while remaining consistent with Australia's obligations under international copyright treaties.

The use must not be made for the purpose of obtaining a commercial advantage or profit. It must also:

- amount to a special case;
- not conflict with a normal exploitation of a work; and
- not unreasonably prejudice the legitimate interests of the owner of the copyright.

Importantly, the new exception is not available if another exception or statutory licence applies to the use (or could apply, if the conditions were met). So if, for example, a use already fits under Part VA or Part VB of the Copyright Act, the new provision may not be applied.

Here are some activities that may now be covered by this new flexible dealing or special case exception:

- A library can convert an educational resource from a VHS to a DVD, provided that a DVD of the resource is not commercially available.
- A captioned version of a DVD can be created for playing to a class that includes students with hearing impairment, if a captioned version of the DVD is not commercially available.

- A lecturer can download a podcast to play in the lecture theatre, provided that the podcast is made available for free. Note that if the podcast was originally broadcast on radio or TV, the Part VA Licence still applies.

## **Section 28 – performance in the classroom – is extended.**

The scope of section 28, which allows a literary, dramatic or musical work to be performed, or a film or sound recording to be played in class for the purposes of educational instruction, has been significantly extended to also allow the *communication* of the same works.

This would allow the use of a centralised reticulation system to play a video or DVD and will also allow a lecturer to videoconference to another group of students, a lecture that incorporates film or music.

## **Statutory Licence VA**

The Part VA licence has been broadened to include free-to-air podcasts and webcasts. This means that where those podcasts originated as free-to-air broadcasts, educational institutions can now copy and communicate podcasts under the conditions of the licence.

## **Libraries and archives**

The Amendments contain several changes that are relevant to the University's libraries and archives. One of these is that it is now permitted for a copy to be made for preservation purposes if the work is, or may be, damaged or deteriorated, or is lost or stolen. Published works are subject to a commercial availability test.

## **Technological Protection Measures**

Before the introduction of these amendments, it was an offence to deal in Technological Protection Measures (TPMs), but not to use them. It is now also an offence to use a circumvention device to break a TPM. However, there is an exception to this rule for education, allowing an educational institution to break a TPM on its premises in order to copy or communicate works in electronic form under the Part VB licence.

## **More information**

It has been possible to give only a brief overview of some of the changes in the Amendment Act. For more detail about any of the above, or to find out the broader scope of the Copyright Amendment Act, you are encouraged to read further:

[http://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright\\_IssuesandReviews\\_CopyrightAmendmentAct2006-Factsheets](http://www.ag.gov.au/www/agd/agd.nsf/Page/Copyright_IssuesandReviews_CopyrightAmendmentAct2006-Factsheets)

<http://www.copyright.org.au/publications/infosheets.htm>

or contact the **Copyright Officer, Berenice Scott**: [bscott3@une.edu.au](mailto:bscott3@une.edu.au)