

FAQs About COPYRIGHT

1. Copyright Basics: What is Copyright?

Copyright is a form of protection provided to the authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works under the Copyright Act (Cap. 63) (the "Act") in Singapore.

"Copyright" is defined as the exclusive legal "right" of the copyright owner to reproduce ("copy"), publish, and sell the matter (whether literary, musical, or artistic work) as covered under the Act.

This intangible intellectual property right can exist as literature, art, music, sound recordings, film and broadcasts. Copyright is automatic. The author, performer and maker of the work can claim copyright. Copyright protection exists so long as a protected work is original.

2. Why is Copyright so important?

Copyright protection enables the copyright owners to profit from the use or reproduction of their works by preventing others from doing the same. It is unlawful for anyone to violate any of the rights provided by the Act to the owner of copyright. Anyone who, does not have the copyright owner's consent, and proceeds to do one of the things that the copyright owner is exclusively entitled to do (e.g. makes copies of the copyright owner's book) is infringing the copyright owner's rights.

A common form of copyright infringement takes place when a student photocopies an entire book or substantial portions of a book. That student would infringe copyright. It would also be an infringement to instruct or request someone else, for example, the owner of a photocopy shop to make a copy/copies of copyright material.

It is also a violation of copyright if anyone **sells**, lets for hire or imports for the purpose of trade, any infringing articles, which he knows or ought reasonably to know was made in infringement of the copyright. A person who is found to have **more than 5** or more infringing copies of any work is **presumed to be in possession for the purpose of sale**.

3. How is Copyright Enforced?

Copyright can be enforced through Court actions. If a person is found to have infringed a copyright owner's copyright, the consequences can be serious. Depending on the nature of the offending acts; a person who is found guilty of copyright infringement can be liable for civil and/ or criminal sanctions.

The Copyright Act allows the copyright owner to obtain a seizure of the infringing articles, obtain an injunction to stop further infringement or to recover compensation in the form of damages. The Court can also make an order to obtain delivery up of the infringing copies.

Under the Copyright Act, it is a criminal offence, if at a time when copyright subsists in a work, a person knowingly exploits the work for commercial purposes, for example, to make copies for sale. The penalty for infringement by selling, letting for hire or exhibiting in public is a \$10,000 fine per infringing copy, up to a total of \$100,000 and/or imprisonment up to 5 years.

4. Does that mean that I cannot photocopy at all?

Although making a copy of the copyright work without authorisation is an infringement, the law provides an exception under which copying is not considered an infringement. A certain amount of copying by individuals is permissible under certain situations that are deemed as "**fair dealings**" under the Copyright Act such as copying of a **reasonable portion for private study or research**.

5. How much is "Reasonable Portion" to constitute "Fair Dealing" for me to photocopy?

As a student photocopying for the purpose of research or private study, the "Reasonable Portion" of copying to be deemed "Fair Dealing" (i.e. NOT infringing copyright) is:

- (a) Not more than 10% of the total number of pages or total number of bytes in a published edition of a work; or
- (b) In a case where the work is divided into chapters, not more than a single chapter of the work; or
- (c) In a case where the work comprises an article in a periodical publication, the whole of the article. (one article)

6. What if I copy more than the amounts specified above in Para 5?

In all other cases where copying is in excess of the amounts specified above in Para 5 whether a particular dealing is a "Fair Dealing" is determined on a case by case basis and the Court will take the following factors into account:

- (a) the purpose and character of the dealing, including whether such dealing is of a commercial nature or is for non-profit educational purpose;
- (b) the nature of the work or adaptation;
- (c) the amount and substantiality of the part copied in relation to the whole work or adaptation; or
- (d) the effect of the dealing upon the potential market for, or value of, the work or adaptation.

As this is on a case by case basis it is best to avoid having to resort to the factors in Para 6 to prove fair dealing. The safest course of action would be to keep within the amounts specified in Para 5.

7. Is there infringement by the school when multiple copies are made for educational purposes?

There is no infringement making multiple copies of the whole or part of a work or an article for or on behalf of the body administering an educational institution for educational purposes of the school or that of another educational institution; subject to the restrictions in Para 5.

8. What about literary, dramatic or musical works performed by students?

While a **public performance** of a literary, dramatic or musical work would constitute infringement, the performance of a *musical, literary or dramatic work* by students of an educational institution is allowed. However, in the case of literary or dramatic work, the performance must be in the course of the activities of the institution and the audience must be limited to persons connected with the institution (for example, a parent, guardian, brother or sister of a student at that institution).

9. What about Computer Programs?

A computer program is a type of literary work under the Copyright Act, and is accorded the full protection of the Copyright Act against infringement. The limits specified in Para 5 above would therefore apply to Computer Programs.

10. What about downloading "cool stuff" from the Internet into my hard disk?

Except where the dealing can be considered as fair dealing, such downloading would constitute copyright infringement. A dealing is presumed to be fair if not more than 10% is downloaded. If more than 10% of the work has been copied, the question of whether the dealing is fair depends on the considerations in paragraph 6 above. In the absence of exceptional reasons or circumstances, the taking of an entire work is NOT fair dealing.

11. My friend just sent me an email. Can I forward it without infringing copyright?

The email and the attachments sent to you (whether it contains other messages or computer programs) are all subject to copyright. It all depends on whether the person who wrote the email or computer program consented to such forwarding. If that person suffered as a result of that act of forwarding the email, then he may sue you for the damages that he suffered. He may also apply to court for an injunction to stop further acts of forwarding.

12. How long does Copyright subsist?

The protection period varies according to the type of protected work. For author's works, copyright lasts 50 years after the death of the author, or the first publication, whichever is later. For a published edition of a work, copyright subsists for 25 years after the expiration of the calendar year in which the edition is first published.

13. What is the © symbol about?

Even without the © symbol all original works are protected by copyright. This means that students cannot copy material indiscriminately just because there is no © symbol. The purpose of the symbol is practical in nature and acts as a notice. The copyright owner through the symbol alerts the user that he has copyright over the work.

Reminder

The Polytechnic expects all students to respect the originality and integrity of contributions made by individual authors and artists. It is the responsibility of all students to comply with the provisions of the Copyright Act when duplicating works. These works include literature, music, drama, pictures, graphics, sculpture, audio-visual presentations, motion pictures and sound recordings.

The Polytechnic takes a serious view of any infringement of copyright by all students and a contravention of the provisions of the Copyright Act is deemed to be a breach of the Polytechnic's Regulations, which could result in disciplinary action.