

Artistic Works and Photographs

1. **Can we copy artistic works such as illustrations, photos, cartoons, maps or photos from a book, conference paper or article for use as part of a class activity?**

Generally, where the artistic work is accompanied by text, you can copy the whole or part of the artistic work under the Statutory Text and Artistic Licence. If the artistic work has no accompanying text, you can copy the whole or part of the work under the Statutory Text and Artistic Licence provided it has not been separately published or if it has been separately published, is not available for purchase within 30 days.

See Education Licence B: Statutory Text and Artistic Licence for further information

2. **Can artistic works be copied for examination purposes?**

Yes. The whole of an artistic work can be copied for examination purposes.

3. **Can students create a new work from an existing artistic work?**

Students can create new artistic works from existing artistic works as a fair dealing as part of their own research or study or for the purpose of criticism, review, parody or satire.

For further information, see:

2.2 Artistic Works and Photographs (a) Free Use Exceptions

1.13 Copyright Exceptions

If a student has relied on the research or study exception and plans to exhibit their work, for example in “Art Express”, or make use of it outside of the classroom, they will need the permission of the artist/copyright owner. In addition, changing the artistic work may infringe the artist’s moral rights.

See 1.16 Moral Rights for further information

4. **Can a teacher copy a diagram, drawing or map onto a whiteboard or blackboard in a class?**

Yes. Schools and TAFE institutes are specifically permitted to copy material by hand under the Copyright Act.

5. **Can a teacher copy images from a disc or CD-Rom?**

Yes. Generally where the artistic work is accompanied by text, a teacher can copy the whole or part of the artistic work under the Statutory Text and Artistic Licence. If the artistic work has no accompanying text, a teacher can copy the whole or part of that work under the Statutory Text and Artistic Licence provided it has not been separately published or if it has been separately published, it is not available within 30 days.

See Education Licence B: Statutory Text and Artistic Licence for further information

However, if the CD-Rom or disc carries terms and conditions that limit its reproduction and communication, or is protected by a Copy Protection Measure, see information sheet, Copyright Protection Measures and the Copyright Amendment Act 2006 or contact your local Copyright Manager for further advice.

6. **Can a teacher scan or digitise an artistic work?**

Yes. This is permitted under the Statutory Text and Artistic Licence where:

- the artistic work has not been separately published; or
- it has been separately published but is no longer available within a reasonable time at an ordinary commercial price.

See Education Licence B: Statutory Text and Artistic Licence for further information

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7. **Can I photograph a painting and make a slide of it or project it for use in the classroom?**

Yes. This is permitted under the Statutory Text and Artistic Licence where the painting:

- has not been separately published (eg available as a slide); or
- has been separately published, but is no longer available within a reasonable time at an ordinary commercial price.

See Education Licence B: Statutory Text and Artistic Licence for further information

8. **Can a teacher photograph a sculpture?**

Yes. Sculptures, which are permanently located in either a public place or premises open to the public, and works of artistic craftsmanship, such as wall hangings and mobiles, can be photographed. There is no limit on the number of copies you may then make of the photograph. However, if the item is part of a temporary exhibition then the copyright owner's permission is required.

9. **Can buildings or models of buildings be photographed?**

Yes. This is specifically permitted under a provision of the Copyright Act.

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10. **Can an artistic work be included in a film?**

An artistic work such as a painting, engraving, photograph or illustration can be filmed where the use is incidental to the principal subject of the film. The use of an artistic work in a film will be considered incidental, for example, if it is briefly seen in the background of a scene and does not form part of the main action presented in the film. If the use of the artistic work in the film is other than incidental, permission from the copyright owner should be obtained.

Alternatively, if the artistic work is specifically a sculpture or work of artistic craftsmanship, eg. a wall hanging or mobile, which is permanently located in either a public place or premises open to the public, you may film it. If it is part of a temporary exhibition then the permission of the copyright owner is required.

11. **Can a teacher use clip art from the Internet in a teaching resource?**

You should always check the terms and conditions of the website as many websites allow for the free educational use of clip art, eg. most uses of Microsoft Clip Art by schools are free.

Teachers should become familiar with the following websites which allow for the free educational use of clipart:

- the Open Educational Resources website: www.oercommons.org
- the Creative Commons website: www.creativecommons.org
- the Creative Commons educational material portal:
<http://creativecommons.org/education/>

12. **We are holding a photographic competition at the school and plan to publish the winning photos in the school magazine. Who owns the copyright to the photos?**

The author, in this case, the student photographer, owns the copyright. The school should obtain written permission from the student to reproduce the photograph in its magazine and any other uses it may wish to make of the photograph.

13. **Can I take photos of my students to use in the school magazine?**

Check your Department or Association's policy on photographing students. Generally, you will need the written permission of the student (and parent if the student is under eighteen) to publish their photograph in a school or departmental publication. Schools can, for example, seek permission

from students to be photographed, filmed or sound recorded for school purposes at the beginning of each school year.

14. **Can we reproduce an existing art work on the cover of our school magazine?**

Check if the art work is still in copyright. See 1.7 "How Long Does It Last"? for information on copyright duration.

If it is still in copyright, the Statutory Text and Artistic Licence will enable you to reproduce all or part of the work if it is accompanied by text. If the work is not accompanied by text, you will be able to reproduce the whole or part of the work if it has not been separately published or, if it has been separately published, it is not available within 30 days as a separate publication. Otherwise, you should obtain permission from the copyright owner (the artist), or their estate, and the owner of the art work.

See 4: How to Clear Rights for further information on obtaining permission from the copyright owner

15. **Can we use a cartoon from a website in our school magazine which we sell to students?**

You may only charge a cost recovery fee for the magazine if you wish to reproduce it under the Statutory Text and Artistic Licence. If you plan to sell the magazine to make a profit you will need to get permission from the copyright owner of the cartoon. Contact the website owner to find out who this is.

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