

## GENERAL EXCEPTIONS (for anyone)

Anyone may copy from a copyright protected work under the 'fair dealing' exceptions in the Copyright Designs and Patents Act 1988 (as amended) for the following purposes, provided sufficient acknowledgment of the source is given unless it's impossible to do so.

### What is 'Fair Dealing'?

Fair Dealing is not defined in law but left open to the discretion of the courts in a possible copyright infringement claim. The courts will decide on a matter of fact, degree and impression in each case i.e. what you are doing, how much are you copying and what impact your copying has on the work and its market value.

The key question asked is: how would a fair-minded and honest person have dealt with the work?

Before copying under the 'fair dealing' exceptions, you should always consider:

- a) Would your use substitute for possible sales and cause the rights owner loss of revenue?
- b) Is the amount you are using reasonable, appropriate and absolutely necessary for your purpose?
- c) Does the copying meet the provisos of the exception/s you are relying on?

Although limits are not specified, copying a whole work or a large proportion as opposed to buying a copy would be difficult to defend as fair i.e. would be considered damaging to the rights owner's legitimate economic interests and unfair.

Therefore unless the amount copied can be justified as fair, it would be advisable to remain within the confines of an 'insubstantial' amount.

- **Private study and non-commercial research (s.29)**

Individuals may make a single copy of a fair proportion of any copyright work for personal use. This exception does not apply to making copies for commercial use or by a representative of a commercial body.

Libraries are also permitted to provide a single copy of 'a reasonable' part of a work to individuals on request, under the Library exceptions s.38-39 (below), provided a copyright declaration form is signed by the recipient stating it's to be used for private study and non-commercial research only, and a fee is paid for the costs involved in providing the copy.

- **Data and Text Analysis for Non-Commercial Research (s.29A)**

Researchers are permitted to perform automated text and data mining from 'lawfully accessed' content, for non-commercial research. Content must have been purchased or subscribed to by the individual or institution (i.e. educational establishment or library).

- **Criticism, review, quotation and news reporting (s.30)**

This only applies to a work which has previously been made available to the public i.e. distributed, published, broadcast i.e. unpublished works or private works/papers/letters may not be copied for these purposes without the rights owners permission for these purposes.

*News reporting must be of current events and excludes photographs.*

- **Caricature, Parody, Pastiche (s.30A)**

Parts of a work, which has previously been made available to the public i.e. disseminated, published or broadcast, may be copied to create a new work of these descriptions.

***N.B. None of the above exceptions can be overridden or restricted by contracts or licence terms.***

- **Incidental inclusion of copyright material (s.31)**

This exception permits copying where another copyright work has been unintentionally captured while creating an artistic work, sound recording, film or broadcast.

- **Representation of certain artistic works on public display (s. 62)**

1) This section applies to buildings, sculptures, models for buildings and works of art, if permanently situated in a public place or in premises open to the public.

2) You may make

- (a) a graphic work representing it,
- (b) a photograph or film it, or
- (c) a broadcast of a visual image of it.

3) Copyright is also not infringed by issuing or communicating these copies to the public

Any works resulting from this exception may also retain copyright as a separate work e.g. a Photographer will retain copyright in a photograph taken of a building or sculpture on public display.