

EXCEPTIONS FOR LIBRARIES

Lending

Educational institutions are permitted to lend copyright works under 2 separate legal exceptions in the [Copyright Designs and Patents Act 1988](#).

36A Lending of copies by educational establishments

Educational establishments may lend any type of copyright work.

40A Lending of copies by libraries or archives

Copyright in a work of any description is not infringed by the following acts by a public library or a library which is not conducted for profit, in relation to a book within the public lending right scheme--

- (a) lending the book;
- (b) in relation to an audio-book or e-book, copying or issuing a copy of the book as an act incidental to lending it.

40B Libraries and educational establishments etc.: making works available through dedicated terminals

A library, archive, museum or educational establishment may communicate a work to the public or make it available to the public by means of a dedicated terminal on its premises, if the work:

- (a) has been lawfully acquired by the institution,
- (b) is communicated or made available to individual members of the public for the purposes of research or private study, and
- (c) is communicated or made available in compliance with any purchase or licensing terms to which the work is subject.

The purpose of this exception is to enable libraries to make their analogue collections available to users in digital format. No security or DRM measures are required to be attached to the digital copies, enabling users to make copies under the applicable fair dealing exceptions, as they would have done with the analogue version.

Copying by Libraries and archives

41 Copying by librarians: supply of single copies to other libraries

if the conditions are met, a librarian may make a single copy of the whole or part of a published work and supply it to another library, without infringing copyright in the work.

The conditions are—

- (a) the copy is supplied in response to a request from a library which is not conducted for profit, and
- (b) at the time of making the copy the librarian does not know, or could not reasonably find out, the name and address of a person entitled to authorise the making of a copy of the work i.e. permission could not have been sought. (This does not apply to journal articles)

42 Copying by librarians etc.: preservation or replacement copies of works

If it's not practicable to purchase a copy, a librarian, archivist or curator of a non-profit library, archive, museum or gallery, may make a copy of an item in the permanent collection (i.e. Reference only) —

(i) in order to preserve or replace that item in that collection, or

(ii) to replace an item in the permanent collection of another library, archive or museum, where that item has been lost, destroyed or damaged, provided that the copy is :

(a) included in the part of the collection kept wholly or mainly for the purposes of reference on the institution's premises,

(b) included in a part of the collection not accessible to the public, or

(c) available on loan only to other libraries, archives or museums.

A [Photocopy Collection Cover Sheet](#) should be attached to each copy supplied to the University Library by another library, indicating under which exception/licence/authority the copy was provided.

42A Copying by librarians: single copies of published works

If conditions are met, and on receipt of a request accompanied by a declaration a librarian of a non-profit library may make and supply a single copy of:

(a) one article in any one issue of a periodical, or

(b) a reasonable proportion of any other published work.

The conditions are—

(a) the librarian is not aware that the declaration is false in any way.

(b) The information which must be included in the declaration is—

- i. the name of the person who requires the copy
- ii. the name of the material which that person requires
- iii. a statement that the person has not previously been supplied with a copy of that material by any other library,
- iv. a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes
- v. the recipient will not supply the copy to any other person, and
- vi. a statement that to the best of the person's knowledge, no other person with whom the person works or studies has made, or intends to make, at or about the same time as the person's request, a request for substantially the same material for substantially the same purpose.

43 Copying by librarians or archivists: single copies of unpublished works

If conditions are met, and on receipt of a request accompanied by a declaration, a librarian of a non-profit library may make and supply a single copy of the whole or part of an unpublished work .

The conditions are—

(c) the librarian is not aware that the declaration is false in any way.

(d) the information which must be included in the declaration is—

- vii. the name of the person who requires the copy

- viii. the name of the material which that person requires
- ix. a statement that the person has not previously been supplied with a copy of that material by any other library or archive.
- x. a statement that the person requires the copy for the purposes of research for a non-commercial purpose or private study, will use it only for those purposes
- xi. the recipient will not supply the copy to any other person, and
- xii. a statement that to the best of the person's knowledge, no other person with whom the person works or studies has made, or intends to make, at or about the same time as the person's request, a request for substantially the same material for substantially the same purpose.

But copyright is infringed if—

- (a) the work had been published or communicated to the public before the date it was deposited in the library or archive, or
- (b) the copyright owner has prohibited the copying of the work,
- (c) where a person ("P") makes a declaration under this section that is false, P is liable for infringement of copyright as if P had made the copy, and the copy supplied to P is to be treated as an infringing copy for all purposes.

Additional Information relating to sections 41 to 43

'Libraries' include educational establishments

References to a librarian, archivist or curator include a person acting on behalf of them.

Libraries etc. may charge for supplying a copy under sections 41 to 43, but the sum charged must be no more than the costs incurred in production of the copy.

Any licence or contract term which prevents or restricts the doing of any act in this section, is unenforceable.