



INFORMATION SHEET

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Quotes and extracts: copyright obligations

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In this information sheet we give a brief overview of copyright law as it relates to using quotations and extracts from other people's writing. The principles we discuss, including the special exceptions to infringement which relate to "criticism or review" or "research or study", are also relevant to the use of other copyright material, such as extracts from music and films.

We give more detailed information relevant to writers and publishers in our books *Writers & Copyright*, *Journalists & Copyright* and *Copyright for Book Publishers*.

For information about our other information sheets, other publications and training program, see our website <http://www.copyright.org.au> or contact us (see contact details at the bottom of the page).

We update our information sheets from time to time. Check our website to make sure this is the most recent version.

Key points

- Whether or not you need permission to use quotes and extracts will generally depend on whether or not what you want to use is a "substantial part" of the work from which it comes.
- The concept of a "substantial part" is judged by whether or not what you want to use is important, essential or distinctive.
- There are some situations in which you can use a "substantial part" without permission.

What does copyright protect?

The *Copyright Act 1968* (Cth) sets out several categories of material that are eligible for copyright protection. One of these categories is "literary works". Materials protected by copyright as literary works include novels, poems, song lyrics, reports, articles in newspapers and magazines and compilations (such as tables of statistics, catalogues and directories). Plays and screenplays are protected as "dramatic works".

For more information, see our information sheet *An introduction to copyright in Australia*.

When is copyright infringed?

Copyright owners have the exclusive right to deal with their material in certain ways, including to reproduce it by photocopying, typing, copying by hand, and scanning. Copyright owners also have the exclusive right to "communicate" their work "to the public", for example, by posting material to a website, or by emailing or faxing to the public.

Reproducing or communicating copyright material without the copyright owner's permission may infringe copyright. Reproducing or communicating part of a work may also infringe copyright.

Using part of a work

An infringement of copyright will generally occur where a “**substantial part**” of a work is used in one of the ways exclusively reserved to the copyright owner. A part may be considered “substantial” if it is an **important, essential or distinctive** part. There are many court cases about whether using part of a work infringed copyright, such as the case where the court held that reproducing 4 lines from a 32 line Kipling poem infringed copyright. However, it will depend on the circumstances of each case whether a part is so important that permission is needed to reproduce it.

The quality of the part is more important than the quantity or proportion. The part may be a “substantial part” even if it is a small proportion of the whole work, particularly if it has resulted from a high degree of skill and labour.

The purpose of the use may also be relevant; if you are using the part for a commercial purpose or to include in a competing work, it is more likely you will need permission.

Copyright in a literary or dramatic work may be infringed by quoting directly from the work or by paraphrasing the work if either involves a reproduction or communication of a substantial (in the sense of important, essential or distinctive) part of the work.

When is permission needed to use a quotation?

There are two ways in which the word “quote” is understood. It can either be an extract from a larger work (for example, a paragraph or couple of sentences or lines from a book, report or poem), or it can be an entire quote itself (for example, a bumper sticker quote or a T-shirt slogan).

You are likely to need permission to reproduce a quote if:

1. a) the quotation is a “work” for the purposes of copyright, or
- b) the quotation is an important part of a “work”;

and

2. the copyright has not expired

and

3. no special exception applies.

Some quotations too small to be a “work”

If the quote you propose to use is not an extract from a longer work, but “stands alone” as a short phrase, it may be too small or unoriginal to be a “work”, and thus not protected by copyright. For example, single words and short combinations of words such as names, titles, slogans and headlines are generally too short to be “works”. Similarly, a pithy off-the-cuff remark may not be a “work”.

In one case, the court said:

An original literary work must be the product of some substantial application of knowledge, labour, judgment, or literary skill or taste on the part of the author of it, but the precise amount of these several things which is required cannot be defined and must depend largely on the special facts of the case and must in each case be very much a question of degree.

Special exceptions to infringement

There are special exceptions in the Copyright Act which allow use of copyright material for certain purposes without permission. The special exceptions most relevant to readers of this information sheet are likely to be:

- fair dealing for criticism or review; and
- fair dealing for research or study.

Criticism or review

You may use a work, or part of a work, for the purposes of criticism or review without the copyright owner's permission. In one case, the court referred to the following *Macquarie Dictionary* definitions:

"criticism" 1. the act or art of analysing and judging the quality of a literary or artistic work, etc: *literary criticism*. 2. the act of passing judgment as to the merits of something ... 4. a critical comment, article or essay; a critique.

"review" 1. a critical article or report, as in a periodical, on some literary work, commonly some work of recent appearance; a critique ...

This exception may allow you to reproduce an extract from a book, poem, compilation or other literary work in a newspaper review or critical biography or discussion paper, provided your use is fair, and genuinely for the purpose of criticism or review.

You must also identify the work and its author in order to rely on this exception.

Research or study

You may use a work, or part of a work, for the purposes of research or study without the copyright owner's permission, provided your use is fair and genuinely for the purpose of research or study.

The Copyright Act provides that it is fair to copy up to 10% or one chapter of a literary, dramatic or musical work published in an edition of more than 10 pages, and up to one article from a periodical, or more than one if they relate to the same subject matter. When a literary or dramatic work is in electronic form (e.g. on the internet) 10% of the number of words may be copied. Copying more than this amount may be permissible in some circumstances.

This exception may allow you to reproduce a quote or extract in an essay or thesis written as part of a course of study.

More information on this exception is contained in our information sheet *Copying for research or study*.

Reporting news

You may use a work or part of a work for the purpose of reporting the news in newspapers, magazines and similar periodicals, and in reporting news in "communications" (such as broadcasts and on websites) or in films, provided the dealing is fair. If your report is published in the print media, you must identify both the work and the author.

The *Macquarie Dictionary's* definition of "news" has been used in a couple of Australian cases looking at whether a particular use of copyright material was for "reporting news". That definition states in part:

1. a report of any recent event, situation etc. 2. the report of events published in a newspaper, journal, radio, television or any other medium. 3. information, events, etc considered as suitable for reporting.

The cases make it clear that "news" is not necessarily restricted to current events and could relate to long term reviews or commentary. However, in the case of online news it is unclear whether the exception would apply to archived copies of news or current event articles.

Moral rights

Creators of works have moral rights in what they create. These rights are the right to:

- be attributed as the creator of their work;
- take action if their work is falsely attributed as the work of someone else; and
- take action if their work is treated in a way that is prejudicial to their honour or reputation.

These rights apply when a work, or a substantial part of a work, is used. Accordingly, if a quote or extract is a substantial part, the user will be required to acknowledge the author of the work and has an obligation to respect other moral rights owed to the creator.

For more information, see our information sheet *Moral rights*.

Common questions about using quotes & extracts

If I use only 10% of a work, do I infringe copyright?

Reproducing or communicating 10% of a work may be permissible for the purposes of research or study. Generally though, there is no standard percentage or proportion of a work or number of words that can be used without infringing copyright. In every case it is a question of whether an important, rather than a large, part of the work has been reproduced. Clearly, the number of words or proportion of a work that constitutes an important part will differ in every case.

If I say where the quote came from, can I use it without permission?

Acknowledging the source of the work is not a substitute for permission. If you need permission to use a quote or extract, identifying the work is not enough.

If you get permission to use a work or a substantial part of a work, you will still be obliged to respect the moral rights of the author by providing sufficient attribution of their authorship.

If a work is anonymous, or has no copyright notice, can I use it without permission?

A work does not need to have the copyright notice or the author's name on it to be protected. The absence of a copyright notice or the author's name may of course make it more difficult to obtain permission.

If I use another person's work for a non-profit purpose, do I need permission?

There is no special exception that allows you to use a work without permission just because it is used for a non-profit purpose. The copyright owner may give permission for a low fee, or no fee, if the use is non-profit, but you still need to get permission.

Can I reproduce a quote or extract if I change it a little?

Generally, you do not avoid infringement by making changes. If the altered version includes an important part of the work, then you should get permission.

Can I avoid infringement by paraphrasing?

You do not infringe copyright if you write something new based on information or ideas you have learned from the works of others, provided the expression of the information and ideas is yours.

In some cases, however, you may infringe copyright if you paraphrase another person's work, closely following the structure of the other person's work or the detailed order in which the information or ideas were expressed. This is because the structure and order in which the information or ideas are set out are part of the other person's expression of that information or those ideas, as well as the words used.

Is plagiarism the same as copyright infringement?

Plagiarism generally means taking and using another person's ideas, writing or inventions as your own. Plagiarism is not a legal term, and not all acts of plagiarism are necessarily infringements of copyright. A student or academic may breach the ethical standards expected of them by presenting another person's ideas as his or her own, but not infringe copyright because the other person's ideas are expressed in a new way.

Generally, academic practice requires that acknowledgment be made of other people's research and ideas. If you are in an educational institution, further information on proper practice should be available from your institution.

Do I need permission to copy abstracts provided with journal articles?

An abstract or summary of an article that a publisher or author provides with an article or paper (usually in academic, technical or scientific journals) is generally likely to be a "literary work" in its own right. This means

that if you want to copy it (for example, to circulate to staff or to put into a catalogue), you will generally need permission.

However, if you are working in an educational institution or within a State or Federal government department or agency, you may be able to rely on provisions in the Copyright Act to copy and use the abstract. If you are studying or researching, or you are a library copying the item for a researcher or student, you may also be able to copy the item (subject, in the case of libraries, to the various procedures you will need to follow). For further information, see our information sheets *Libraries (non-profit): introduction to copyright*; *Educational institutions* and *Copying for research or study*, available from the Copyright Council website.

In other cases, organisations with licences from Copyright Agency Limited (CAL), a collecting society whose members are authors and publishers, may be able to copy abstracts for certain purposes. Alternatively, permission might be obtained from the publisher, either on a case-by-case basis or, for example, before renewing a subscription.

Does an organisation need permission to make its own abstracts or summaries of articles or books?

You do not need permission to make an abstract or summary of a book or article unless the abstract or summary reproduces a “substantial part” of the way the information is expressed in the source work.

An example from US law concerned a half page, 300-word synopsis of a three act, forty-six page opera. The publisher of the opera unsuccessfully sued the publisher of the synopsis. The court held that the synopsis did “not use the author’s language ... [but gave] just enough information to put the reader on inquiry, precisely as ... the review of a book or the description of a painting induces the reader to examine further”. The court in that case contrasted an abstract with an abridgment, which it described as a “colourable shortening of the original text”, indicating that people are more likely to need permission to make an **abridged** version of a work.

An example of an abridgment which infringed copyright is found in an early Australian case. In that case, the publishers of the *Gippsland Mercury* summarised news items from the Reuter’s news telegrams published in the Argus newspaper. The court held that the *Mercury* had made a “copy, colourable alteration or adaptation” that should be prevented.

The uncertainty in this area lies in predicting whether the amount of the source work taken amounts to an important, distinctive or essential part. This will be a question of fact and degree in each case. As a rule of thumb, you are unlikely to need permission if you just briefly outline the main points and arguments in a book or article.

Where do I get permission to reproduce a quote or extract?

If you want to use published material, the first point of contact is usually the publisher, who may be able to give you permission or give you some information about whom to contact. For unpublished material, the first point of contact is usually the author.

CAL operates a copyright clearance service called *Copyright Express* for one-off uses of its members’ works and the works of overseas authors and publishers it represents. CAL also has available a range of other licences for associations, businesses and professionals, which are available on an annual basis. CAL can be contacted on: telephone (02) 9394 7600, fax (02) 9394 7601 or by visiting its website: <http://www.copyright.com.au>.

For more information, see our information sheet *Owners of copyright: how to find*.

Further information

For further information about copyright, and about our other publications and training program, see our website – <http://www.copyright.org.au>.

The purpose of this information sheet is to give general introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.

If you meet our eligibility guidelines, a Copyright Council lawyer may be able to give you free preliminary legal advice about an issue that is not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions, libraries and governments. For information about the service, see <http://www.copyright.org.au/advice> or our information sheet *Australian Copyright Council: who we are, what we do*.

Information from the Arts Law Centre of Australia may also be of interest to you: see <http://www.artslaw.com.au> or telephone (02) 9356 2566.

Reproducing this information sheet

You may download and print one copy of this information sheet from our website for your reference, or you may purchase a printed copy from our online shop – <http://shop.copyright.org.au> – or direct from us.

Australian Copyright Council

The Australian Copyright Council is a non-profit organisation whose objectives are to:

- assist creators and other copyright owners to exercise their rights effectively;
- raise awareness in the community about the importance of copyright;
- identify and research areas of copyright law which are inadequate or unfair;
- seek changes to law and practice to enhance the effectiveness and fairness of copyright;
- foster co-operation amongst bodies representing creators and owners of copyright.



The Australian Copyright Council has been assisted by the Commonwealth Government through the Australia Council, its arts funding and advisory body, through its Policy, Communication and Planning Division.

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