
1.0 Purpose

1.1 The purpose of this Appendix is to provide general information about copyright, copyright infringement and Appendix R30.04A - Application of Fair Dealing under Policy R30.04 (otherwise known as the Fair Dealing Policy).

2.0 Scope

2.1 This Appendix to Policy R30.04 (Copyright Compliance and Administration Policy) applies to all University employees and students who reproduce and use copyright protected works in all media and formats in the course of University teaching, learning, research and administrative activities.

2.2 This Appendix applies when the copies made of a copyright protected work are covered by the fair dealing exception in Canada's Copyright Act. The fair dealing provision permits use of a copyright protected work without permission from the copyright owner or the payment of copyright royalties.

2.3 For greater clarity and certainty, this Appendix applies only to the University entities listed in s.2.1 of Schedule R30.04A.

3.0 Copyright

3.1 Copyright subsists in every original literary, dramatic, musical and artistic work provided that certain conditions are met. These conditions include the citizenship or residence of the author of the work. Copyright also subsists in performers' performances, sound recordings and broadcast signals. Very few original works do not attract copyright.

3.2 Copyright comprises a bundle of exclusive rights owned by the copyright holder. In a university setting, some of the most pertinent rights are the right to reproduce the copyright-protected work and the right to communicate the work to the public by telecommunication. The latter right is important in relation to the transmission of digital copies of works by email or over the Internet. The communication right protects emailing copyright-protected work to students or posting a copyright-protected work to a learning management system that is accessible by students.

3.3 In general terms, with the exception of performers’ performances, sound recordings and broadcast signals, the term of copyright lasts for the life of the author and a period of 50 years from the end of the year in which the author died. For a sound recording and a broadcast signal the term is 50 years from the end of the year in which the recording was made or the signal was broadcast. For sound recordings published before that 50 year period expires, the term is extended to the end of the year 50 years after publication.

3.4 Once the term of copyright has expired a work becomes part of the public domain and the work can be used, e.g., reproduced or communicated, without permission.
4.0 Infringement of Copyright

4.1 It is an infringement of copyright to copy all or any substantial part (see definition below) of a copyright-protected work or to communicate all or any substantial part of a copyright-protected work to the public by telecommunication without the permission of the copyright holder, unless copying or communicating the work falls within one of the exemptions in the Copyright Act.

5.0 Substantial Part.

5.1 The Copyright Act does not define “substantial part”.

5.2 In determining what constitutes a substantial part the courts have focused on the quality of what was taken from the original work rather than the quantity that was taken. As a result, no quantitative percentage of a work can be used to determine what constitutes a substantial part of a work. In general, reproducing a few sentences from a periodical article or book as a quotation is not a reproduction of a substantial part of the work.

5.3 It is not an infringement of copyright if only an insubstantial part of a copyright-protected work is reproduced or communicated, e.g., in a thesis or periodical article.

6.0 Digital Licences (e-journals, databases, e-books, and other library e-resources)

6.1 The SFU Library has entered into numerous licence agreements with publishers and aggregators pursuant to which it obtains access to published works in digital form.

6.2 The digital licences typically specify the uses that the University can make of the works to which access is provided. In some instances a copyright-protected work is made available to the University under a licence with a publisher or aggregator that prohibits certain uses of the work, e.g., prohibits the copying of the work for inclusion in a course pack.

6.3 Any copying and/or distribution restrictions contained in a licence that permits access to a copyright-protected work will take precedence over Appendix R30.04A (the Fair Dealing Policy).

6.4 Before using Appendix R30.04A (the Fair Dealing Policy) to copy or communicate a short excerpt of a copyright-protected work that is subject to a digital licence, it is necessary to ensure that the use is not prohibited by the licence. You can obtain information about the conditions imposed on copyright-protected e-resources by searching for the title of the resource in the electronic journals database (http://cufts2.lib.sfu.ca/CJDB4/BJAS/browse), the list of SFU Library Databases (http://cufts2.lib.sfu.ca/CRDB/BJAS/) or at http://www.lib.sfu.ca/collections/ebooks.

7.0 The Fair Dealing Exemption

7.1 To fall within the fair dealing exemption, a dealing, e.g., copying or communicating a work, must be for one of the eight purposes enumerated in the Copyright Act and also must be fair.

7.2 The Supreme Court of Canada has considered the following six factors in determining whether a dealing is fair:

(i) The purpose of the proposed copying, including whether it is for one of the fair dealing purposes enumerated in the Copyright Act,

(ii) The character of the proposed copying, including whether it involves single or multiple copies, and whether the copy is destroyed after it is used for its specific intended purpose,

(iii) The amount of the copying from the user’s perspective, including the proportion of the work that is proposed to be copied and the importance of that excerpt in relation to the whole work,

(iv) Alternatives to copying the work, including whether there is a non-copyrighted equivalent available,

(v) The nature of the work, including whether it is published or unpublished, and

(vi) The effect of the copying on the work, including whether the copy will compete with the commercial market of the original work.
7.3 This Appendix and the related appendices that discuss Appendix R30.04A - Application of Fair Dealing under Policy R30.04 (the Fair Dealing Policy) provide guidance on how the fair dealing exemption may apply. These appendices discuss the application of the exemption in particular contexts. They do not however address all of the circumstances in which the fair dealing exemption can be applied.

8.0 Other Exemptions

8.1 In addition to fair dealing, the Copyright Act includes a number of other exemptions from infringement of copyright. These include reproducing a work to display it in a classroom, reproducing a work in a test or examination, performing sound recordings or audiovisual works in a classroom, copying and communicating works made available through the Internet, time-shifting and reproducing a work for private purposes.

8.2 A discussion of these additional exemptions and the conditions applicable to these exemptions is beyond the scope of this appendix except for the exemption for copying and communicating works made available through the Internet which is discussed below.

8.3 For more information about the other exemptions contact the university copyright officer at copy@sfu.ca. With respect to audiovisual works you can find additional information in the policy Appendix R30.04F - Application of Appendix R30.04A (Fair Dealing Policy) to Audiovisual Works.


9.1 The university has adopted the Appendix R30.04A to explain how the University manages its fair dealing rights and responsibilities pursuant to Policy R30.04 (Copyright Compliance and Administration Policy) and Canada’s copyright law when copyright protected works in any media are used for a bona fide university teaching, learning, research and administrative purpose.

9.2 The policy permits faculty members, instructors, staff members and students to copy and communicate, in paper or electronic form, short excerpts from copyright-protected works for any of the eight fair dealing purposes. Section 4.4 of Appendix R30.04A (the Fair Dealing Policy) defines a short excerpt as follows:

4.4 A short excerpt means:
   (i) Up to 10% of a copyright-protected work (including a literary work, musical score, sound recording, and an audiovisual work),
   (ii) One chapter from a book,
   (iii) A single article from a periodical,
   (iv) An entire artistic work (including a painting, print, photograph, diagram, drawing, map, chart, and plan) from a copyright-protected work containing other artistic works,
   (v) An entire newspaper article or page,
   (vi) An entire single poem or musical score from a copyright-protected work containing other poems or musical scores,
   (vii) An entire entry from an encyclopedia, annotated bibliography, dictionary or similar reference work.

Provided that in each case, no more of the work is copied than is required in order to achieve the allowable purpose.

9.3 When considering copying or communicating a short excerpt under Appendix R30.04A, the most advantageous of sections 4.4 (i) through (vii) may be selected.

For example, if one chapter of a book is more than 10% of the book, the one chapter may be copied under Appendix R30.04A.
If more than one figure is selected for copying, the number of figures selected that may be copied under Appendix R30.04A cannot exceed 10% of the book. For example, if a book is 200 pages long, up to 20 pages may be copied under Appendix R30.04A.

9.4 Depending on the circumstances, copying or communicating a copyright-protected work outside the limits of Appendix R30.04A may be permitted under the fair dealing exemption and other exemptions in the Copyright Act. To determine whether copying or communicating a work outside of Appendix R30.04A falls within the exemptions of the Copyright Act contact the University Copyright Officer at copy@sfu.ca and also see Appendix R30.04B - Standard for Evaluating if a Particular Instance of Copying is Fair Dealing under Policy R30.04.

10.0 Permission

10.1 If copying or communicating a copyright-protected work is outside the limits in Appendix R30.04A (the Fair Dealing Policy) and does not fall within one of the exemptions in the Copyright Act, permission of the holder of copyright must be secured. Permission may be obtained directly from the holder of copyright or his or her representative. Some copyright collectives, such as SOCAN for audio recordings and the Copyright Clearance Center for textual works, provide transactional permission in respect of a very large repertoire of copyright-protected works on behalf of copyright holders.

10.2 The Copyright Officer (copy@sfu.ca) can assist you in determining how best to obtain permission.

10.3 It is advisable to seek written permission to copy or communicate a copyright-protected work that falls outside limits of Appendix R30.04A (the Fair Dealing Policy) and to retain a copy of the written permission in the event that copying or communicating the work is ever challenged. See SFU Records Retention Schedule and Disposal Authority number 2005-007 (RRSDA number 2005-007) for the length of term for keeping copyright clearance permissions at SFU.

11.0 Exemption for Works Available through the Internet

11.1 Section 30.04 of the Copyright Act permits reproducing, communicating and performing in public by an educational institution or a person acting under the authority of one, e.g., a faculty member or staff member, for educational or training purposes a copyright-protected work that is made available through the Internet. The exemption is however subject to a number of conditions that must be met before the exemption applies. The conditions are as follows:

(i) The educational institution, or person acting under its authority, mentions the source, e.g., through a URL, and if given in the source, the name of the author, in the case of a work, the name of the performer, in the case of a performer’s performance and the name of the record label in the case of a sound recording,

(ii) The copyright-protected work or the Internet site where it is posted is not protected by a digital lock (also known as a technical protection measure or TPM) that either restricts access to the work or restricts copying, communicating or performing in public the work,

(iii) There is no clearly visible notice - other than a copyright symbol posted on the Internet site or on the work - prohibiting the act sought to be done, and

(iv) The educational institution or person acting under its authority did not know or should not have known that the work was made available through the Internet without the consent of the copyright holder.

11.2 Using the exemption under section 30.04(1) of the Copyright Act is preferable to copying or communicating a copyright-protected work under the Appendix R30.04A (the Fair Dealing Policy) because the entire work may be copied or communicated under section 30.04(1) of the Copyright Act. A faculty member or staff member must however be satisfied that each of the conditions is met before using the exemption.
12.0 Digital Locks

12.1 Some copyright holders use digital locks to restrict access to copyright-protected works and/or to limit the use that can be made of such works. The Copyright Act now prohibits the circumvention of digital locks to obtain access to copyright-protected works.

12.2 Consequently, Appendix R30.04A does not permit the circumvention of digital locks to obtain access to copyright-protected works.

12.3 In order to circumvent a digital lock it is necessary to obtain the permission of the copyright holder.