

# Special libraries and archives

## Libraries and archives in educational institutions

The Copyright Act sets out several specific mechanisms designed to allow educational institutions to make use of copyright material. The most commonly used of these are the two educational statutory licences – Part VA and Part VB. However it is important to remember that libraries and archives in educational institutions are also able to use the relevant library and archive exceptions and [s200AB](#)'s flexible dealing exception (although s200AB can only be used if no other exception or limitation applies, which means that it cannot be used for anything covered by the statutory licences).

There are two statutory licences:

- Part VA for broadcasts, administered by [Screenrights](#)
- Part VB for works administered by the [Copyright Agency](#)

These allow schools, TAFEs and universities to make certain uses of specific amounts of materials, as long as they comply with a number of administrative requirements and they pay equitable remuneration to a collecting society. The collection society in turn distributes the money to the various copyright owners.

Guidance on the licences for schools and TAFEs is issued by the [Copyright Advisory Group](#) and for universities is coordinated by [Universities Australia](#).

Educational libraries will also often be expected provide copyright information to [teachers](#) and [lecturers](#) about what they can use/do in the course of their teaching and research. They are also often charged with promoting open access policies.



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## Libraries and archives in organisations assisting those with disabilities

The Copyright Act also sets out a statutory licence for organisations assisting those with print and intellectual disabilities.

[Disability organisations](#) (including all educational institutions) can make master copies and copies for individuals under the statutory licence. Organisations do not pay any money for copies made under this licence, but the licence has a number of restrictions on use. It only applies to literary or dramatic works that are not commercially available, meaning that a check has to be made for commercial availability each time a copy is made. If a version of the work is available in an accessible format (audio, large print etc) then a copy cannot be made, even if it is not accessible to the person requesting the item (eg an audio book that is not in DAISY format). The copies must also be marked with the prescribed notices and comply with record keeping requirements (different requirements exist for [hardcopy](#) and [electronic](#) resources).

For artistic works, libraries in educational institutions can copy under the educational statutory licences for enrolled students.

All the normal library and archives exceptions (document delivery, preservation copying etc) are also able to be used, however s200AB will have limited use for libraries within disability organisations as it can only be used for matter not covered under the statutory licences.

For libraries and archives that are not part of a disability organisation (including an educational organisation) the [flexible dealing exception](#) may be used to make accessible format copies.

## Government libraries and archives

Government libraries and archives can use the general library and archive exceptions (such as [document supply](#) and [preservation copyright](#) ) as long as they fulfil the requirements of those sections.

In addition, Commonwealth, State and Territory Departments and a number of statutory bodies and agencies operate under the [Government Statutory Licence](#) (also called the [s183 licence](#)). This licence allows any use of copyright material as long as it is for the “services of the Commonwealth or a State”. As this is a licence, not an exception, the organisation must have signed up to the exception and the uses must be paid for. The exact terms of the licence and payments are negotiated between the collecting agencies (Copyright Agency, Screenrights and APRA/AMCOS) and the government.

The licence can be extended to third parties – so for example a government library could request a manuscript be scanned and emailed to a departmental employee as long as it was for the services of government. If you are doing this it would be best (for both parties) to put the request in writing, clearly stating it is a request under s183.

To check if your organisation is covered by the licence you can [check the list](#) from the Copyright Agency or contact the [Department of Communications and the Arts](#) (Federal) or your Crown law/Government Solicitor’s Office (States and Territories).

For uses that do not fall within a specific library/archive exceptions, or the section 183 licence, you may be able to use the [flexible dealing exception](#).

Government libraries and archives may also be expected to be proactive in making sure that their organisations are licensing their data and publications properly. The Department of Finance has [guidelines](#) on licensing public sector information, and [AUSGOAL](#) is a good source of additional information.

### Parliamentary Libraries

A [special exception](#) applies to parliamentary libraries that allows an authorized officer to do anything with a copyright work without infringing copyright as long as it is for the “sole purpose of assisting a person who is a member of a parliament in the [performance](#) of the person's duties”.

This exception is very broad and no other restrictions or administrative requirements apply. For other copyright matters parliamentary libraries can use the normal library and archive exceptions and the s183 government licence.

## FAQs

Our agency is a listed licensee under the government statutory licence, so what does this allow us to do and how do I know what it will cost?

The government statutory licence covers any use of copyright material as long as it's for the purposes of the Commonwealth or State. The licence is generally negotiated at whole of government level and surveys are done as agreed between the collection agencies and government (sometimes these are not regular). Individual departments pay a flat fee which covers all their copying for a year. As such it's impossible to work out a per-use cost, and you don't have to be concerned about a single use increasing your payment – any use you make is covered by the fee you've already agreed to. You can consult with the [Department of Communications and the Arts](#) (Federal) or your Crown law/Government Solicitor's Office for further guidance.

Our library supports the local government of the region, can we work under the s183 licence?

Unfortunately not, the licence only covers Commonwealth and State government, not local councils. You can of course use the other library exceptions

I have been supplying the employees of our government department with copies of materials they need for their jobs. Am I meant to be sending notices of these uses to someone?

If you are operating under the s183 licence at the moment no specific record keeping arrangements apply, although there may be surveys during which different procedures must be followed. If you have questions you can consult the [Department of Communications and the Arts](#) (Federal) or your Crown law/Government Solicitor's Office for further guidance.

One of the researchers at our government organisation has written a paper which she wants to publish in an open access journal. The journal is concerned she doesn't have the authority to openly license the work as it might be crown copyright. Is it, and can she publish open access?

If she has written the paper as part of her employment the default will be that copyright belongs to her employer unless there is a contract to the contrary. If the paper wasn't written as part of her employment, she will most probably own copyright. Factors to consider in deciding whether something was done

“in the course of employment” include whether she was directed to do it, whether it is part of her core duties, and whether she did it during work hours and on work equipment. If the copyright belongs to the agency then they can choose to license the work open access, and may have policies in place to encourage that. If there are third party works (material not created by the author) you may need to remove those or seek permission from the copyright holder before you can license the work openly.

## Further resources

[Government: Commonwealth, State and Territory](#) Australian Copyright Council  
[Government Licences](#) Copyright Agency  
[Government and Public Sector](#) Creative Commons

The [Australian Libraries Copyright Committee](#) is the primary policy body for the discussion of copyright issues affecting libraries and archives in Australia. For more information and resources on copyright for libraries, including regular training opportunities throughout Australia, see <http://libcopyright.org.au>.