



# Music: Choirs, Orchestras, Ensembles & Private Music Teachers

This information sheet is for choirs, orchestras, bands, private music teachers, music students and others wanting to perform and copy music. It provides information about when permission is needed to use music, where to get permission, and whether a licence from a copyright collecting society is available. Contact details for the collecting societies are included at the end of the information sheet.

For detailed information about how copyright applies in relation to music, see our practical guide [Music & Copyright](#). If you are in a band, or perform as a DJ, see our information sheets [Music: Bands](#) and [Music: DJs](#).

We update our information sheets from time to time. Check our website at [copyright.org.au](http://copyright.org.au) to make sure this is the most recent version.

**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.**

## Key points

- Generally, you need permission to copy, record or perform music in public.
- There is no general exemption from copyright requirements where material is used for a non-profit purpose.
- There are no special copyright provisions for choirs, orchestras, bands, ensembles, bands or private music teachers.
- In some cases, rather than having to contact each copyright owner separately, you can get a licence from a copyright collecting society covering your use of material.

## What does copyright protect?

Copyright protects a range of materials, including:

- musical works;
- arrangements and performing editions of music;
- accompanying lyrics - literary works;
- the typesetting of published lyrics and music - published edition; and
- recorded sounds - sound recordings.

Other things protected by copyright include other types of **literary works** (such as novels and journal articles), **artistic works** (such as drawings and photographs) and **films** (recorded visual images and sounds).

For further information, see our information sheet [An Introduction to Copyright in Australia](#).

The person who creates material such as music or lyrics also has separate rights known as “moral rights”. These are discussed in our information sheet [Moral Rights](#).

### **When is permission needed?**

You need the copyright owner’s permission if:

- you want to use all or a “substantial part” of copyright material in one of the ways exclusively reserved to the copyright owner;
- copyright has not expired; and
- no special exception to infringement applies.

A “substantial part” means an important, distinctive or essential part of the original work. This may be a very small part. Even a few notes of various pieces of music have been held by courts to be substantial parts of those works.

### **Exclusive rights of copyright owners**

The exclusive rights of an owner of copyright in **music** or song **lyrics** include the right to:

- reproduce the work, including copying by hand, photocopying, scanning, recording and filming;
- perform the work in public, that is, in a non-domestic setting;
- arrange or transcribe the musical work;
- translate the lyrics; and
- communicate the work to the public, for example, by emailing a notated or recorded copy of the work or by making it available on a website.

The exclusive rights of an owner of copyright in a **sound recording** include the right to:

- reproduce or copy the sound recording;
- perform/play the recording in public, that is, in a non-domestic setting; and
- communicate the recording to the public, for example, by emailing the recording or by making it available on a website.

Unless you have permission, dealing with all or any substantial part of copyright material in one of the above ways will usually infringe copyright unless copyright has expired or an exception applies.

Copyright can also be infringed by authorising an infringement - that is, by endorsing or sanctioning an infringement.

It is important to remember that one article can contain a number of separate copyrights. For example, a digital album will consist of sound recordings as well as the musical works and lyrics heard in the sound recording. All of these will be protected by their own individual copyright.

### **Has copyright expired?**

The general rule for published music and lyrics is that copyright lasts until 70 years from the end of the year the creator died. Copyright in sound recordings generally lasts until 70 years from the end of the year the recording was first published.

To work out whether copyright has expired, you need to consider each of the relevant copyrights in the material you want to copy or perform: for example, music; lyrics; arrangements; performing editions or translations. Even if copyright in one of these has expired, you may need permission for the remaining rights.

For more information, see our information sheet [Duration of Copyright](#).

### **Does an exception to infringement apply?**

The Copyright Act contains many exceptions to copyright infringement which are listed in our information sheet [Exceptions to Copyright](#).

There are no exceptions specifically for the use of musical material by choirs, orchestras, bands, ensembles or private music teachers, even if they are using music for a non-profit or charitable purpose. However, there are some exceptions to infringement that may be relevant to you or your group, in particular circumstances, which we explain below.

#### ***Fair dealing***

Individuals can make a **fair dealing** with a work (for example, by copying or arranging a piece of music) for purposes of **research or study** without infringing copyright.

It is deemed to be fair to use up to 10% of the number of pages of a musical work from a hardcopy **for research or study**, if the piece has been published in an edition of at least 10 pages.

If the music you want to use is not printed in an edition of at least 10 pages, or if you want to use more than 10%, or if you want to reproduce the notated music from a digital score or tablature, you will need to work out how much might be “fair” to use, by balancing the following factors:

- the purpose and character of the use of the work;
- the nature of the work;
- the possibility of obtaining the work within a reasonable time at an ordinary commercial price;
- the effect of the use upon the potential market for, or the value of, the work;
- where only part of the work is copied, the amount taken.

You will **not** be able to rely on this exception:

- to copy a whole piece of music if you can buy it; this would not be “fair”;
- to copy music for performance - this would not usually be for “research or study”;
- to copy music for someone else, such as a student or orchestra member; this would not be for the “research or study” of the person making the copy).

See also our information sheets [Research or Study](#) and [Fair Dealing: What Can I Use Without Permission](#).

#### ***Performance in class***

Section 28 of the Copyright Act is a particular exception that allows a teacher or a student to perform music or play recorded music in the course of giving or receiving educational instruction in class. This is conditional on the instruction not being given for profit, and provided that the audience is limited to people taking part in the instruction.

#### ***Hand copying in class and use in exams***

Section 200 of the Copyright Act is an exception which allows a teacher or student to make copies and arrangements of musical material by hand in the course of educational instruction. These

copies and arrangements may also be communicated provided that it is done as part of an examination e.g. an online music exam as part of distance education.

### **Performing live or recorded music “in public”**

Permission is generally needed to perform music in public. Under the Copyright Act, a performance includes:

- playing and performing live music; and
- playing a recording, such as a vinyl record, CD or digital download.

As a result of a number of court cases, most performances outside the private and domestic sphere are regarded as in public for the purposes of copyright.

A performance which is given for free, or which has a small audience, may still be a public performance for the purposes of copyright. For example, courts have held that music played by an orchestra to members of a club was a public performance, even though no admission fee was charged, and admission was limited to members.

Further details may be found in our information sheet [Playing Music In Public: OneMusic Australia](#).

### **Getting permission to play live and recorded music in public**

Under the Copyright Act, anyone who organises the performance of music material, as well as performers themselves, need to ensure that the appropriate permissions for the performance have been obtained. The owner or manager of a venue may have a separate legal obligation to make sure permission has been obtained.

#### ***Licences to play music***

In practice, it is generally the venue that gets the relevant licences. If the venue already has a licence, you don't need to get an additional licence.

Otherwise, licences are acquired from OneMusic Australia. OneMusic Australia is a joint initiative of APRA AMCOS and PPCA to simplify the music licensing process.

In the past, licensees seeking to play music in public (e.g. a restaurant owner looking to play music for customers in their dining space) needed to get at least two separate licence agreements, one for use of musical works from APRA and one for sound recordings from PPCA. Licensees can now get a single, bundled OneMusic Australia licence agreement which includes all of the necessary permissions required to play music in public. These licences schemes are industry-based e.g. for Fitness Centres, Retailers & Service Providers, Sports, Community Halls).

Further information and details of the music licence sign up process, may be found on the OneMusic Australia website ([onemusic.com.au](http://onemusic.com.au)).

There are some types of musical material which are not covered by OneMusic Australia or a specific APRA AMCOS or PPCA licence. These include **grand rights** works, being the right to perform musical compositions within the context of a dramatic work. They include the performance of entire dramatic and musical works such as operas, musicals and large choral works such as oratorios and the use of musical works in dramatic presentations and ballets. For such works, permission to perform is usually needed from the relevant music publisher. The composer or publisher may, however, deal through an agent who negotiates these uses on their behalf.

### **Copying print music**

You need permission to copy sheet music, or a substantial part of a piece of music, unless copyright has expired or an exception to infringement applies. Permission will be needed whether

you are photocopying, scanning or hand copying. Even if the music itself is no longer protected e.g. because the composer has been dead for longer than 70 years, you may still need permission from the publisher to copy the typesetting, if it was published less than 25 years ago. Remember also that the performing edition or the arrangement of the work may still be protected.

Some OneMusic licences include the right to use copies or temporary photocopies of sheet music e.g. Eisteddfodau Licences. If there are no such terms in your agreement, the person to contact for permission is the music publisher. APRA AMCOS may be able to help you find the right company.

### **Educational institutions**

Under the educational statutory licence in the Copyright Act, educational institutions may copy and communicate various types of copyright material (including sheet music), within certain limits, for their “educational purposes”.

Most primary and secondary schools are also able to rely on a blanket licence from APRA AMCOS allowing them to make a limited number of copies from published musical works within the APRA AMCOS repertoire if the purchased music is owned by the school or a member of staff. The copies must be made for the educational purposes of the school and must be marked in accordance with the requirements of the licence.

Further information about this licence may be found on the APRA AMCOS website ([apraamcos.com.au/music-customers/licence-types/music-in-education/schools/](http://apraamcos.com.au/music-customers/licence-types/music-in-education/schools/)).

### **Copying lyrics**

You will need to get permission to copy lyrics (or any important part of lyrics) that are still protected by copyright, unless a special exception to infringement applies. This will be the case if, for example, you want to photocopy the lyrics or write them out by hand. Permission for this is typically a matter of contacting the music publisher.

### **Recording music**

If you are filming or recording live or pre-recorded music e.g. filming a choir during rehearsal or performance, you will usually need permission from the music publisher.

APRA AMCOS offers a number of blanket licences for the recording of music, including:

- special event licences - for filming of events, other than stage plays and musicals, where music is played or where music is later synchronised onto the film's soundtrack, and the film is only for private viewing of those appearing in it;
- cover version (manufacture) licences - if you will be making audio recordings for demo purposes or commercial release; and
- blanket licences for schools and for universities. Generally, these licences are acquired by peak organisations and governing bodies such as Departments of Education and Universities Australia. The licence covers specified types of recordings, films and videos of and for school events. See our information sheet [Education – Using AV Materials](#) for more information, or contact APRA AMCOS or your peak/governing body).

In these circumstances you will also need permission from the performers to record their performances. Note that if you make a sound recording (rather than an audio visual recording) of a performance, the performers (even if they are schoolchildren) generally become joint owners of copyright. For more information on these issues, see our information sheet [Performers' Rights](#).

## Arranging musical works

You need permission to make an arrangement or transcription of a musical work that is still protected by copyright, unless copyright has expired or a special exception to infringement applies. In most cases, making an arrangement will also involve making a reproduction (e.g. on paper or on music scoring software) for which permission will also be needed.

## Frequently Asked Questions (FAQs)

### ***Can I photocopy music I own for ease of use during rehearsal and performance?***

The general rule is that you cannot copy print music merely because you own it. You will need permission from the publisher, unless all relevant copyrights have expired, or a special exception to infringement applies.

However, APRA AMCOS has published guidelines which list situations in which music publisher members of APRA AMCOS would allow the copying of music without needing to obtain express permission (provided you own the print original):

- enlarging a page of music because you have poor eyesight;
- copying to overcome a difficult page turn (to use in conjunction with the printed copy); and
- making a copy when the accompaniment is not available separately.

For more information, see the *Guide to Music Copyright for Australian Educators* available for free download from the APRA AMCOS website ([apraamcos.com.au/media/6289/ampal-guide-to-print-music\\_final.pdf](http://apraamcos.com.au/media/6289/ampal-guide-to-print-music_final.pdf)).

### ***Can I photocopy music which is out of print?***

Even if music is out of print, it may still be protected by copyright. You will usually need the publisher's permission, unless copyright has expired or a special exception to infringement applies.

### ***Can I copy print music to practise for my exams?***

The research or study exception in the Copyright Act will generally include copying a piece of music in order to practise it for an exam.

However, under this exception, you can generally only copy up to 10% of the number of pages if the work has been published in an edition of at least 10 pages.

If you wanted to copy more than that, or if the music you want to copy is not published in an edition of at least 10 pages, you can only copy what is "fair" in all the circumstances.

If the piece of music you need is readily available for purchase, it will not normally be "fair" to copy all of it.

### ***Can a private music teacher copy print music for students?***

There is a provision in the Copyright Act allowing a teacher or student to make copies of music and lyrics by hand (e.g. on a whiteboard or paper) in the course of educational instruction.

There is also a provision allowing the copying, adapting, and communication of music and lyrics as part of the questions to be answered in an examination or in answer to a question in an examination. In our view, this provision is unlikely to apply to private teachers wanting to supply copies of music for exams (e.g. AMEB) as this would **not** be either a "question" or an "answer".



Apart from these situations, a private music teacher will usually need to get permission from the music publisher to copy print music for students, unless the copyright has expired.

***Can I photocopy sheet music to avoid a tricky page turn or change the song order?***

There are no special exceptions in the Copyright Act allowing you to copy music to avoid a difficult page turn or to assemble songs in a different order for performance purposes. However, guidelines from APRA AMCOS indicate that copying for the purpose of avoiding a difficult page turn is not a problem, provided you own the music from which you are playing, and use the copy in conjunction with the printed music.

Generally, you will need permission to copy music if you want to assemble pieces in a different order or if you want to avoid juggling several books.

***Do we need permission to perform music for a non-profit purpose?***

If you are performing protected music in public, for example at a concert or community event, you will need a licence to do so, even if you are not charging an entrance fee or making any money out of the performance. Contact OneMusic Australia for the appropriate licence.

***Do we need permission to perform Christmas carols or to reproduce them?***

Many Christmas carols are in the public domain, which means you can copy and perform them without permission. However, modern arrangements of Christmas carols and modern carols are still protected by copyright, so you will need a licence to perform them and the publisher's permission to reproduce them.

APRA AMCOS publishes a list of Christmas carols along with information about their copyright status ([apraamcos.com.au/music-customers/licence-types/copying-and-reproducing-music/christmas-carols/](http://apraamcos.com.au/music-customers/licence-types/copying-and-reproducing-music/christmas-carols/)).

***Do we need permission to put scores on a member's only website?***

A music group may wish to place digital copies of scores online to allow members to print their own copies. Generally, the rights granted under OneMusic licences will not usually extend to the use of digital copies. For example, a Community Music Groups licence only permits physical, non-digital copies of original print music to be used for the purposes of performances by the group in practice and rehearsals, and for the purposes of archiving.

***How do I obtain permission to make a classical arrangement of a popular song?***

Prior to developing a new classical work based on a popular song, clearance from the copyright owner is likely to be required if the new music clearly uses the popular song. The music publisher may require a 'demo' of the adaptation to be submitted as part of the clearance process, which can be an onerous requirement if it doesn't suit the classical composition model.

**Contact details**

- **OneMusic Australia:** 1300 162 162; [onemusic.com.au](http://onemusic.com.au)
- **APRA AMCOS:** (02) 9935 7900; [apraamcos.com.au/contact-us/](http://apraamcos.com.au/contact-us/)
- **PPCA:** (02) 8569 1100; [ppca.com.au](http://ppca.com.au)
- **ARIA:** (02) 8569 1144; [aria.com.au](http://aria.com.au)

## Further information and advice

A Copyright Council lawyer may be able to give you free preliminary legal advice about an issue 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 and libraries. For further information about the service, see the Legal Advice section of our website [copyright.org.au](http://copyright.org.au).

## Reproducing this information sheet

Our information sheets are regularly updated. Please check our website to ensure you are accessing the most current version. Should you wish to use this information sheet for any purpose other than your reference, please contact us for assistance.

## About us

The Australian Copyright Council is a non-profit organisation founded in 1968, representing the peak bodies for professional artists and content creators working in Australia's creative industries and Australia's major copyright collecting societies.

Our 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 respectfully acknowledges the Gadigal people, the owners and custodians of the land on which our office is located. We pay our respects to all First Nations elders: past, present and emerging.



**Australian Government**



*The Australian Copyright Council has been assisted by the Australian Government through the Australia Council, its arts funding and advisory body.*

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