



Music: Copying CDs, MP3s, Cassettes & Records

In this information sheet we outline the legal issues most relevant to copying sound recordings, including music that is streamed online, digital downloads, CDs and other forms of recorded music. We also address issues such as copying music that you have purchased from one device to another and digital licensing.

The purpose of this information sheet is to give 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

- If you are streaming music online, your use of this content will be dictated by the terms of service. Using plugins and third party software to download this content may be an infringement of an access control technological protection measure.
- If you purchase music online, you will be bound by the terms and conditions, you will be bound by the terms and conditions and you may not be able to rely on the provision in the Copyright Act that allows copying of recorded music.
- If you purchased a physical copy of an item embodying a sound recording (for example, a CD, record or cassette) you can copy the music onto another device you own (such as an iPod).

Copying CDs, records and cassettes you own for personal use

You can copy sound recordings you own for your own personal use, on a device that you own. You can copy into different formats or into the same format. For example, under the provision, you may copy music from CDs you own to:

- your computer;
- your portable music player (such as an iPod);
- a blank CD to play in the car;
- a blank CD for a second CD player; and
- a blank CD to keep as a backup.

Copying from a CD

You can copy from a CD if:

- you own the CD;
- it is a non-infringing copy (that is, it was not made illegally);
- you make the copy yourself; and
- you make the copy to play on a device you own.

The new provision therefore does not apply if:

- the CD is owned by someone else;
- the CD is an illegal copy;
- the copy is made for you by someone else; or
- you make the copy to play on a device owned by someone else.

Once you've made the copy, there are things you must not do with the copy or with the original CD. The copy will become an infringing (illegal) copy if you:

- sell or distribute the copy or the original CD;
- play the copy or the original CD in public (such as at an office party, club function or community event); or
- broadcast the copy or the original CD.

If you do any of these things with either a copy **or** the original commercial copy, the copy you made in reliance on the provision becomes an infringing copy.

You can, however, **lend** (but not give) the copy or the original CD to members of your family and to people you are living with.

Copying from cassettes and vinyl records

The provision applies to cassettes and vinyl records in the same way that it applies to CDs.

Copying sound recordings other than music

The provision also applies to recordings of sounds other than music – audio books, for example.

Streaming and downloading digital music

The provision applies to recorded sounds in a digital music file such as an MP3 provided you own the file. You may have paid to download the file, or you may have been able to legitimately stream or download the file without payment.

If you pay to download a file, you often have to agree to certain conditions before you can download it. Even if you don't pay for the file, you may still be asked to agree to certain conditions before you can download. Any such conditions will override the default provisions in Copyright Act that allow private copying. This may be relevant if you want to do something that is allowed by the new provision in the Copyright Act (for example, lend a copy to a member of your family) but not allowed by the terms and conditions of the download.

However, in many cases, the download agreement allows you to make a number of copies of the downloaded file – so double check these.

The provision allowing private copying does not apply to infringing files, such as infringing MP3s that may have been acquired online.

Copying recorded broadcasts and podcasts

The provision does **not** apply to recorded broadcasts and podcasts, but there are different provisions that do. For information on these, see our information sheet *TV & Radio: Home Taping*.

Copying playlists

Playlists may be protected by copyright as a compilation. If you are copying playlists you may need permission from the person who compiled the list. In a high-profile case in the United Kingdom, Ministry of Sound took action against Spotify because Spotify subscribers had created playlists based on Ministry of Sound's playlists. The matter was settled in early 2014. For further information see our information sheets *Music: DJs and Databases, Compilations, Tables & Forms*.

Frequently Asked Questions (FAQs)

Can I digitise my vinyl record collection?

Yes, you can digitise your vinyl record collection, however, there are some limitations on what you can do with the digital copies once they have been made. You can copy your vinyl records to digital provided that each record is non-infringing. Furthermore, you can only use the digital copies on devices you own – such as your desktop or mobile device. You cannot sell or distribute the digital copies.

Can I copy my CD collection onto my iPod?

Yes, provided each CD is non-infringing and you own the iPod. As the process requires copying the music onto a computer, you must own the computer too.

Can I make a mix tape for my friend?

No. You can only make a copy for you to play on a device that you own. You can lend, but not give, a copy you have made to your family and to people you live with.

I am a DJ and want to re-record and mashup music from vinyl records to sell. Can I do this?

Unless you own copyright in the material you wish to copy, using it in this manner is likely to be a copyright issue. In 2003, several DJs were found to have infringed copyright when they remixed sound recordings, manufactured CDs of the remixed versions and offered them for sale, all without the permission of the recording companies as exclusive licensee of the copyright material.

You may be able to get licences from APRA and PCCA allowing you to transfer music into different formats. For more information, see our information sheet *Music: DJs* or contact APRA at www.apraamcos.com.au and PCCA at www.pcca.com.au

Can I lend the copies I have made to the community broadcaster I volunteer for?

The new provision does not allow you to lend copies you have made for private use to a community broadcaster. For more information on community broadcasters, see our information sheet *Community Broadcasters & Copyright*.

What happens if I infringe copyright?

If you infringe copyright, the copyright owner is entitled to take legal action against you for infringement. Depending on your circumstances, you may be able to rely on one of the exceptions to copyright that are set out in the Copyright Act. However, if there is no applicable exception to copyright infringement, a court may award an order for financial compensation or seizure of goods. People infringing copyright for commercial purposes may open themselves up to being charged with criminal offences. For information on the consequences of infringement, see our information sheet *Infringement: Actions, Remedies, Offences, Penalties*.

Can I copy a playlist?

If the playlist have sufficient skill and effort in the selection and arrangement of the songs, it may be protected by copyright as a compilation. You will generally need permission from the copyright owner to reproduce this material.

Further information

For further information about copyright, and about our other publications and seminar program, see our website, www.copyright.org.au

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 and libraries. For information about the service, see <http://www.copyright.org.au/legal-advice/>

Reproducing this information sheet

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About Us

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

We are advocates for the contribution of creators to Australia's culture and economy; the importance of copyright for the common good. We work to promote understanding of copyright law and its application, lobby for appropriate law reform and foster collaboration between content creators and consumers.

We provide easily accessible and affordable practical, user-friendly information, legal advice, education and forums on Australian copyright law for content creators and consumers.



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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