



## INFORMATION SHEET

G64

# Staging musicals, concerts and plays

August 2006

This information sheet is for individuals, theatre groups, orchestras and community arts organisations that need to know how copyright might impact on their event. The information will be helpful if you want to put on a play, concert or musical, or compete in an eisteddfod or other performance-related competition.

For detailed information, see our practical guides *Theatre and Copyright* and *Community Arts & Copyright*.

If you are in a school and want to arrange a performance by students, you may be able to rely on provisions in the Copyright Act and special licences that allow schools to perform some copyright material without getting specific permission from individual copyright owners. For further information, see our practical guide *Educational Institutions: Digital & AV Resources*.

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

## Key points

- There are no general exemptions from copyright requirements for non-profit or amateur groups.
- Generally, you need the copyright owner's permission to perform copyright material. Generally, you will need permission to video or otherwise record performances.
- Generally, you may need permission to alter copyright material and to perform the altered version.
- If all relevant copyrights have expired, you do not need permission to reproduce, alter or perform the work.

## Copyright considerations

### Using copyright material

Much material that is performed is protected by copyright, including:

- **dramatic works** (such as plays, ballets, choreography and mime);
- **literary works** (such as novels, poems and song lyrics);
- **musical works** (such as song melodies and instrumental pieces);
- **sound recordings** (protected separately from anything on the recording); and
- **cinematograph films** (the images and soundtrack comprising a film, TV program or video: protected separately from underlying works such as the screenplay and music).

Generally, you need the permission of the copyright owner if you want to use copyright material in any of the ways reserved to the copyright owner including:

- **reproducing** it (including by photocopying and making digital files, and by filming or audio recording performances);
- **performing** it "in public" (that is, outside a domestic setting of family and friends);

- **adapting** it (for example, by translating text into another language, making a dramatised version of a literary work, or arranging a piece of music); or
- **communicating** it “to the public” (electronically transmitting it, including by broadcasting or making it available online, outside a domestic setting).

### How long does copyright last?

Until 1 January 2005, copyright generally lasted for the life of the relevant creator plus 50 years. There were various exceptions to this rule, including:

- where a work was not published, performed or broadcast during a creator’s lifetime; and
- where something was published anonymously or under a pseudonym, and the identity of the creator couldn’t reasonably be ascertained.

(In each of these cases, copyright lasted for 50 years from the end of the year the work was, with permission, first published, performed or broadcast.)

Under the Free Trade Agreement with the US, Australia agreed to extend the general duration of copyright. As a result, the general rule now is that copyright lasts for the life of the creator plus 70 years (or, where duration depends on year of publication, until 70 years after it is first published).

However, the Free Trade Agreement did not include any obligation to revive copyright if copyright had already expired. This means that if, under the old rules, copyright had already expired by 1 January 2005, it stays expired, and the material can be used freely (at least within Australia).

For further information, see our information sheet *Duration of copyright*.

### Do you need permission?

For copyright purposes, performing a copyright work outside the home is generally regarded as “in public” and therefore requires permission. Note that “**performance**” also covers playing recorded music and screening films, DVDs and videos. In one case, a court held that screening a training video to 11 employees of a bank when the bank was not open to the general public was a “public performance” of the music on the video. Permission is likely to be needed even if the performance, screening or playing of the copyright work is organised by a non-profit organisation such as a church, social club, or sporting association, and even if no entry fee is charged.

In some situations, you may not need permission to perform copyright material. The most common of these is where all relevant copyrights have expired. For example, you do not generally need permission to perform one of Shakespeare’s plays, or one of Mozart’s symphonies, because copyright has expired. However, in some cases, there may be copyright issues even with old works. For example, a particular arrangement or editor’s version of a Mozart symphony may still be protected by copyright, even though copyright in the symphony itself has expired. In such cases, you would need permission from the owner of copyright in the arrangement or version to use it in any of the ways reserved to the copyright owner (including performance).

### Getting permission

In some situations, you can get performance permission from a copyright collecting society. In others, you need to contact the copyright owner or their agent directly. The tables below set out how you can get permission to perform or make other uses of various kinds of material. Contact details for the organisations mentioned are provided at the end of this information sheet.

### Other considerations

#### Contract

If you need permission to use copyright material, the arrangement will usually be governed by a contract between you and the copyright owner (or their agent). Contracts are legally binding agreements that generally need not be in writing (although it is a good idea to have such agreements in writing).

When negotiating a contract, you should make sure you cover all the uses you wish to make of the material: for example, you may want to seek permission to make changes to the material, or to reproduce scripts or sheet music or record rehearsals in order to help performers learn their parts.

Note that a contract will impose obligations on you as well as giving you the right to perform the work. For example, a contract granting rights to perform a play might stipulate that no music will be used in the staging of the play. If you agree to a contract containing such a term, you are legally bound to comply with it.

If you are concerned about the effect of a particular provision in the agreement, you should consider getting legal advice from a lawyer in private practice.

### **Moral Rights**

Creators of copyright works have “moral rights” in relation to their works, which are separate from copyright. Moral rights impose certain obligations on people who use a copyright work. These are:

- to attribute the author as creator of the work;
- not to falsely attribute a work; and,
- not to distort or treat the work in a way that is prejudicial to the creator’s honour or reputation.

See our information sheet *Moral rights* for more information.

### **Performers’ rights**

There are a number of considerations to be kept in mind in relation to performers’ rights. These are:

- performers have limited rights to control the filming or recording of their performances and the use of unauthorised recordings;
- from 1 January 2005 performers may share ownership of copyright in sound recordings of their performances with the person who owns the recording medium;
- the Copyright Act has been amended to give performers moral rights in live performances and performances recorded on sound recordings. These rights are not yet in force.

For more information, see our information sheet *Performers’ rights*.

## Permissions and considerations in detail

### Permission to perform

The table below shows you when you will need to get permission to perform works, whom to contact and other issues you may need to consider.

Material to be performed	Whom to contact for permission	Other considerations
Songs (music and lyrics), instrumental musical works (live performances)	APRA can give permission for performance of music and lyrics.	Moral rights of the songwriter(s).
Recorded songs and instrumental musical works	Licences are needed from APRA (covering the music and lyrics) and PCCA (covering the sound recordings).	Moral rights of the songwriter(s).
Musicals, operas and operettas	Permission is needed from the copyright owner or their agent. Agents that may be able to give permission include Hal Leonard Australia Pty Ltd and Dominie Pty Ltd.	Moral rights of the composer and librettist (and translators or arrangers, if relevant). Check the contract for any additional requirements.
Additional (live) music in a musical or play	APRA can generally grant permission, however, in some cases, it may need to refer you to the copyright owner. Note that there are some uses of music in a dramatic context that APRA is unable to licence and where direct permission from the relevant rights owner should be sought.	Moral rights of the creators of the musical and of the additional music. Check whether the agreement giving you permission to perform the musical or play prevents you from including extra music or songs.
Plays	The copyright owner or their agent can give permission. Dominie Pty Ltd is the agent for many plays.	Moral rights of the playwright (and translator, if relevant). Check whether you are able to add music when performing the play.
Poems, stories or novels (performed as readings or recitations, as part of a play, or as part of an eisteddfod or similar competition)	The publisher can generally grant permission, or can refer you to the appropriate person. Note: permission is <b>not</b> needed to read an extract of "reasonable length" from a literary or dramatic work, if sufficient acknowledgement of the work is given (e.g. the title and author's name is given).	Moral rights of the creators: be sure to attribute the creator, as well as getting permission from the copyright owner.
Displaying artworks (on slides or as a backdrop) or screening film footage during a performance	You will need permission from the copyright owners where the material is still protected by copyright. For films, contact the distributor or studio. For artworks, contact the publisher who has published the work.	Moral rights of the artists or filmmakers (director, producer, screenwriter).

Although in most circumstances it is technically the performer who should obtain permission, in practice it is the venue or event organiser that generally does this.

### Permission to reproduce material for rehearsals or performance

In the process of preparing a performance, you may want to reproduce material such as scripts, sheet music or recorded music. You may also want to film or tape rehearsals. Generally, you need the copyright owner's permission for this (and the performers' permission for the filming or taping), as well as getting permission to perform the work. The first contact would normally be the relevant publisher. For further information, see our information sheet *Owners of copyright: how to find*.

Material to be reproduced	Purpose	Who should get permission; who can grant it
Recorded music	To make backing tapes for rehearsals; or to help performers learn their parts	The performer(s) or producer needs to get permission both from the publisher (covering the music or script) and the record company (covering the sound recording). It may be easier simply to buy the required number of copies.
Scores or sheet music; recordings of the cast performing the music or scripts	To help performers learn their parts	For scores or sheet music, the performer(s) or producer needs to get permission. You may be able to get this from AMCOS; otherwise, normally from the music publisher. Note, however, that you may just need to buy the number of copies you need.
Scripts, poems and other text; recordings of the cast performing the text	To help performers learn their parts	The performer(s) or producer needs to get permission from the copyright owners (usually the publishers).

### Permission to adapt or alter copyright material

As noted above, copyright owners have the exclusive right to make an adaptation of their work. In the case of literary works, this includes making a dramatisation or translation. For dramatic works, an adaptation includes a novelised or translated version of the work. For a musical work, it is an arrangement or transcription.

Material to be adapted or altered	Who should get permission; who can grant it	Other considerations
Arranging music (for example, to suit the piece to the types of instrument available)	The performer(s) or producer will need to get permission from AMCOS or the relevant music publisher. See also the "Practical Guide to the Use of Print Music" available from AMCOS.	Moral rights of the original composer and of the arranger. Copyright attaches to the arranged piece. Note that music publishers sometimes insist on owning copyright in the arrangement.
Altering or adding lyrics to music	This is not covered by the APRA licence. The performer(s) or producer should check with APRA, but may need to get permission from the copyright owner.	Moral rights of the creator(s) of the original lyrics and music; and of the creator of the new lyrics.
Writing a play based on a novel or a story	Permission will be needed and ultimately this is the producer's responsibility. The first step is to contact the publisher.	Moral rights of the author of the original work; moral rights of the playwright. Pay close attention to the terms and conditions of the contracts, especially where the adaptation is being commissioned.
Translating a literary or dramatic work	Permission will be needed and ultimately this is the producer's responsibility. The first step is to contact the publisher.	Moral rights of the creator of the original work and of the translator. Pay close attention to the terms and conditions of the contracts, especially where the translation is being commissioned.

### Permission to videotape or record performances

You will generally need permission if you want to videotape or record a performance or rehearsal of a concert, play or musical, since videotaping or recording will involve making a reproduction of the works performed, and you will also be recording the performance.

If you are not the organiser of the performance, you may also need to check with the organiser to see if they object to members of the audience recording the performances. Some organisers and venues make it a condition of entry that audience members do not film, photograph or otherwise record the performance.

Material to be videotaped or recorded	Permission required
Literary works, plays and musicals	You will generally need permission to video or record literary or dramatic works, including plays and musicals. You should discuss this matter with the person granting performance rights – they may be able to give you permission, or may be able to refer you to the relevant rights holder, such as the publisher.
Music	Permission to record performances that include music will generally be needed from the music publishers or AMCOS.
Performances	You will need to get the consent of all the performers to record a concert. You should ask any performer who does not wish his or her performance to be recorded, filmed or videotaped to tell you well ahead of the performance. If the performers are children, it may be a good idea to consider getting written consent from their parents or guardians as well.

## Permission for programmes

You may need permission in relation to your programmes if:

- you want to print summaries or an analysis of the play written by other people;
- you want to reprint the words of songs or parts of the script; or
- you want to print any photograph or artwork which has been created by someone else.

You do not need permission just to list songs, or the order of the scenes, or the names of the performers.

## Some contact numbers

*Australasian Mechanical Copyright Owners Society (AMCOS)*

(controls rights to reproduce and record music and lyrics on behalf of copyright owners)

Locked Bag 3456

St Leonards NSW 2065

Tel: (02) 9935 7700

Fax: (02) 9935 7709

<http://www.amcos.com.au>

*Australasian Performing Right Association (APRA)*

(controls rights to perform music and lyrics on behalf of copyright owners)

Head Office (offices also in most capital cities)

Locked Bag 3665

St Leonards NSW 2065

Tel: (02) 9935 7900

Fax: (02) 9935 7999

<http://www.apra.com.au>

*Australian Record Industry Association (ARIA)*

(represents Australian record companies)

PO Box Q20, Queen Victoria Building

Sydney NSW 2000

Tel: (02) 9267 7996

<http://www.aria.com.au>

*Copyright Agency Limited (CAL)*

(controls rights to photocopy and digitally reproduce on behalf of copyright owners)

Level 19, 157 Liverpool St

Sydney NSW 2000

Tel: (02) 9394 7600

Fax: (02) 9394 7601

<http://www.copyright.com.au>

*Phonographic Performance Company of Australia (PPCA)*

(controls rights to perform sound recordings on behalf of copyright owners)

PO Box Q20, Queen Victoria Building

Sydney NSW 2000

Tel: (02) 9267 7877

Fax: (02) 9264 5589

<http://www.pcca.com.au>

*Hal Leonard Australia Pty Ltd*

(can grant permission to perform plays and musicals on behalf of Music Theatre International)

PO Box 5130

Cheltenham East VIC 3192

Tel: (03) 9585 3300

Fax: (03) 9585 8729

<http://www.halleonard.com.au>

*Dominie Pty Ltd*

(can grant permission to perform plays and musicals on behalf of Samuel French, Baker's Plays and Hanbury Plays)

8 Cross Street

Brookvale NSW 2100

Tel: (02) 9905 0201

Fax: (02) 9905 5209

<http://www.dominie.com.au>

*Origin Theatrical*

(can grant permission to perform musicals on behalf of R&H Theatricals New York, The Really Useful Group London, Warner/Chappell Music Australia, Cressrelles Publishing London, plus other Australian & international musicals)

PO Box Q 1235

QVB Post Office NSW 1230

Tel: (02) 9518 4600

Fax: (02) 9518 4611

<http://www.orient.com.au/theatrical>

## 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.



Australian Government



*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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