

Schedule 6—Exceptions to infringement of copyright

Part 1—Recording broadcasts for ~~replaying at more convenient time~~ private and domestic use

Copyright Act 1968

1 Section 111

Repeal the section, substitute:

111 Recording broadcasts for ~~replaying at more convenient time~~ private and domestic use

- (1) This section applies if a person makes a cinematograph film or sound recording of a broadcast:

~~(a) in domestic premises; and~~

(b) solely for private and domestic use ~~by watching or listening to the material broadcast at a time more convenient than the time when the broadcast is made.~~

Making the film or recording does not infringe copyright

- (2) The making of the film or recording does not infringe copyright in the broadcast or in any work or other subject-matter included in the broadcast.

Note: Even though the making of the film or recording does not infringe that copyright, that copyright may be infringed if a copy of the film or recording is made.

Dealing with embodiment of film or recording

- (3) Subsection (2) is taken never to have applied if an article or thing embodying the film or recording is:

(a) sold; or

(b) let for hire; or

(c) by way of trade offered or exposed for sale or hire; or

(d) distributed for the purpose of trade or otherwise.

Note: If the article or thing embodying the film or recording is dealt with as described in subsection (3), then copyright may be infringed not only by the making of the article or thing but also by the dealing with the article or thing.

- (4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the article or thing by the lender to a member of the lender's family or household for the member's private and domestic use.

2 Subsection 248A(1) (after paragraph (a) of the definition of exempt recording)

Insert:

or (aaa) an indirect cinematograph film or sound recording of a performance, being a film or recording that:

(i) is made from a communication that is a broadcast of the performance; and

(ii) ~~is made in domestic premises; and~~

~~(iii) is made solely for private and domestic use by watching or listening to the performance at a time more convenient than the time when the broadcast is made; or~~

3 Subsection 248A(1) (at the end of paragraphs (aa) to (m) of the definition of *exempt recording*)

Add “or”.

4 Subsection 248C(1A)

After “paragraph”, insert “(aaa),”.

5 Subsection 248C(2)

After “(a),” insert “(aaa),”.

Part 2—Reproducing copyright material in different format for private use

Copyright Act 1968

6 After section 43B

Insert:

43C Reproducing literary works in books, newspapers and periodical publications in different form for private use

(1) This section applies if:

- (a) the owner of a ~~copy of a literary work (other than a computer program), not being an infringing copy, (the *original copy*)~~ book, newspaper or periodical publication makes from it a reproduction (the *main copy*) of a work contained in the book, newspaper or periodical publication; and
- (b) the main copy is made for his or her private and domestic use instead of the work as contained in the book, newspaper or periodical publication; and
- ~~(c) the main copy embodies the work in a form different from the form in which the work is embodied in the book, newspaper or periodical publication; and~~
- ~~(d) the book, newspaper or periodical publication itself is not an infringing copy of either the work or a published edition of the work; and~~
- ~~(e) at the time the owner makes the main copy, he or she has not made, and is not making, another copy that embodies the work in a form substantially identical to the form of the main copy.~~

~~For this purpose, disregard a temporary reproduction of the work incidentally made as a necessary part of the technical process of making the main copy.~~

(2) The making of the main copy is not an infringement of copyright in the work or a published edition of the work.

Dealing with main copy may make it an infringing copy

(3) Subsection (2) is taken never to have applied if the main copy is:

- (a) sold; or
- (b) let for hire; or
- (c) by way of trade offered or exposed for sale or hire; or
- (d) distributed for the purpose of trade or otherwise.

Note: If the main copy is dealt with as described in subsection (3), then copyright may be infringed not only by the making of the main copy but also by the dealing with the main copy.

(4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the main copy by the lender to a member of the lender's family or household for the member's private and domestic use.

Reproducing work from main copy may infringe copyright

(5) Subsection (2) does not prevent the main copy from being an infringing copy for the purpose of working out whether this section applies again in relation to the making of another reproduction of the work from the main copy.

Disposal of book etc. may make the main copy an infringing copy

- (6) Subsection (2) is taken never to have applied if the owner of the ~~book,~~
~~newspaper or periodical publication~~ original copy disposes of it (in the form from
 which the main copy was made) to another person.

Status of temporary reproduction

- ~~(7) If subsection (2) applies to the making of the main copy only as a result of
 disregarding the incidental making of a temporary reproduction of the work as a
 necessary part of the technical process of making the main copy, then:~~
- ~~(a) if the temporary reproduction is destroyed at the first practicable time
 during or after the making of the main copy—the making of the temporary
 reproduction does not infringe copyright in the work or a published edition
 of the work; or~~
- ~~(b) if the temporary reproduction is not destroyed at that time—the making of
 the temporary reproduction is taken always to have infringed copyright (if
 any) subsisting in the work and the published edition of the work from
 which the main copy was made.~~

7 After Division 4A of Part III

Insert:

Division 4B—Acts not constituting infringements of copyright in artistic works

47J ~~Reproducing photograph in different format~~ artistic work for private use

- (1) This section applies if:

- ~~(a) the owner of a copy of an artistic work, not being an infringing
 copy, photograph (the *original photograph* copy) makes a reproduction (the
main copy) of it for his or her private and domestic use instead of the
 original photograph; and~~
- ~~(b) the original photograph itself is not an infringing copy of a work or
 published edition of a work; and~~
- ~~(c) either:~~
- ~~(i) the original photograph is in hardcopy form and the main copy is in
 electronic form; or~~
- ~~(ii) the original photograph is in electronic form and the main copy is in
 hardcopy form; and~~
- ~~(d) at the time the owner makes the main copy, he or she has not made, and is
 not making, another reproduction of the original photograph that embodies
 the original photograph in a form substantially identical to the form of the
 main copy.~~

~~For this purpose, disregard a temporary reproduction of the original photograph
 incidentally made as a necessary part of the technical process of making the main
 copy.~~

- (2) The making of the main copy is not an infringement of copyright:

- (a) in the artistic work ~~original photograph~~; or
- (b) in a work, or published edition of a work, included in the original
~~photograph~~ copy.

Dealing with main copy may make it an infringing copy

- (3) Subsection (2) is taken never to have applied if the main copy is:
- (a) sold; or
 - (b) let for hire; or
 - (c) by way of trade offered or exposed for sale or hire; or
 - (d) distributed for the purpose of trade or otherwise.

Note: If the main copy is dealt with as described in subsection (3), then copyright may be infringed not only by the making of the main copy but also by the dealing with the main copy.

- (4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the main copy by the lender to a member of the lender's family or household for the member's private and domestic use.

Reproducing main copy may infringe copyright

- (5) Subsection (2) does not prevent the main copy from being an infringing copy for the purpose of working out whether this section applies again in relation to the making of a reproduction of the main copy.

Disposal of original may make the main copy an infringing copy

- (6) Subsection (2) is taken never to have applied if the owner of the original photograph copy disposes of it to another person.

Status of temporary reproduction

- ~~(7) If subsection (2) applies to the making of the main copy only as a result of disregarding the incidental making of a temporary reproduction of the original photograph as a necessary part of the technical process of making the main copy, then:~~
- ~~(a) if the temporary reproduction is destroyed at the first practicable time during or after the making of the main copy the making of the temporary reproduction does not infringe copyright in the original photograph or a work, or published edition of a work, included in the original photograph; or~~
 - ~~(b) if the temporary reproduction is not destroyed at that time the making of the temporary reproduction is taken always to have infringed copyright (if any) subsisting in the original photograph or a work, or published edition of a work, included in the original photograph.~~

8 After section 109

Insert:

109A Copying sound recording in different format for private use

- (1) This section applies if:
- (a) the owner of a record embodying a sound recording makes a copy (the **main copy**) of the sound recording for his or her private and domestic use ~~instead of the record; and~~
 - ~~(b) the record was not made by downloading over the Internet a digital recording of a radio broadcast or similar program; and~~
 - ~~(be) the record is not an infringing copy of the sound recording, a broadcast or a literary, dramatic or musical work included in the sound recording; and~~

~~(d) the format in which sounds are embodied in the main copy differs from the format in which sounds are embodied in the record; and~~

~~(e) at the time the owner makes the main copy, he or she has not made, and is not making, another copy that embodies sounds in a format substantially identical to the format in which they are embodied in the main copy.~~

~~For this purpose, disregard a temporary copy of the sound recording incidentally made as a necessary part of the technical process of making the main copy.~~

- (2) The making of the main copy is not an infringement of copyright in the sound recording embodied in the record or in a literary, dramatic or musical work or other subject-matter included in the sound recording.

Dealing with main copy may make it an infringing copy

- (3) Subsection (2) is taken never to have applied if the main copy is:

- (a) sold; or
- (b) let for hire; or
- (c) by way of trade offered or exposed for sale or hire; or
- (d) distributed for the purpose of trade or otherwise.

Note: If the main copy is dealt with as described in subsection (3), then copyright may be infringed not only by the making of the main copy but also by the dealing with the main copy.

- (4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the main copy by the lender to a member of the lender's family or household for the member's private and domestic use.

Copying main copy may infringe copyright

- (5) Subsection (2) does not prevent the main copy from being an infringing copy for the purpose of working out whether this section applies again in relation to the making of another copy of the sound recording from the main copy.

Disposal of record may make the main copy an infringing copy

- (6) Subsection (2) is taken never to have applied if the owner of the record disposes of it to another person.

Status of temporary copy

~~(7) If subsection (2) applies to the making of the main copy only as a result of disregarding the incidental making of a temporary copy of the sound recording as a necessary part of the technical process of making the main copy, then:~~

~~(a) if the temporary copy is destroyed at the first practicable time during or after the making of the main copy the making of the temporary copy does not infringe copyright in the sound recording or in any work or other subject-matter included in the sound recording; or~~

~~(b) if the temporary copy is not destroyed at that time the making of the temporary copy is taken always to have infringed copyright (if any) subsisting in the sound recording and in any work or other subject-matter included in the sound recording.~~

9 After section 110

Insert:

110AA Copying cinematograph film in different format for private use

(1) This section applies if:

- (a) the owner of ~~a copy of a cinematograph film (the *original copy*) videotape embodying a cinematograph film in analog form~~ makes a copy (the *main copy*) of the film in electronic form for his or her private and domestic use instead of the videotape; and
- (b) ~~the videotape itself~~ *original copy* is not an infringing copy of the film or of a broadcast, sound recording, work or published edition of a work; and
- (c) ~~at the time the owner makes the main copy, he or she has not made, and is not making, another copy that embodies the film in an electronic form substantially identical to the electronic form in which the film is embodied in the main copy.~~

~~For this purpose, disregard a temporary copy of the film incidentally made as a necessary part of the technical process of making the main copy.~~

(2) The making of the main copy is not an infringement of copyright in the cinematograph film or in a work or other subject-matter included in the film.

Dealing with main copy may make it an infringing copy

(3) Subsection (2) is taken never to have applied if the main copy is:

- (a) sold; or
- (b) let for hire; or
- (c) by way of trade offered or exposed for sale or hire; or
- (d) distributed for the purpose of trade or otherwise.

Note: If the main copy is dealt with as described in subsection (3), then copyright may be infringed not only by the making of the main copy but also by the dealing with the main copy.

(4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the main copy by the lender to a member of the lender's family or household for the member's private and domestic use.

Disposal of ~~videotape~~ original copy may make the main copy an infringing copy

(5) Subsection (2) is taken never to have applied if the owner of the ~~videotape~~ *original copy* disposes of it to another person.

Status of temporary copy

~~(6) If subsection (2) applies to the making of the main copy only as a result of disregarding the incidental making of a temporary copy of the film as a necessary part of the technical process of making the main copy, then:~~

- ~~(a) if the temporary copy is destroyed at the first practicable time during or after the making of the main copy—the making of the temporary copy does not infringe copyright in the film or in any work or other subject-matter included in the film; or~~
- ~~(b) if the temporary copy is not destroyed at that time—the making of the temporary copy is taken always to have infringed copyright (if any) subsisting in the film and in any work or other subject-matter included in the film.~~

Schedule 6—Exceptions to infringement of copyright

Part 1—Recording broadcasts for private and domestic use

Copyright Act 1968

1 Section 111

Repeal the section, substitute:

111 Recording broadcasts for private and domestic use

- (1) This section applies if a person makes a cinematograph film or sound recording of a broadcast solely for private and domestic use.

Making the film or recording does not infringe copyright

- (2) The making of the film or recording does not infringe copyright in the broadcast or in any work or other subject-matter included in the broadcast.

Note: Even though the making of the film or recording does not infringe that copyright, that copyright may be infringed if a copy of the film or recording is made.

Dealing with embodiment of film or recording

- (3) Subsection (2) is taken never to have applied if an article or thing embodying the film or recording is:

- (a) sold; or
- (b) let for hire; or
- (c) by way of trade offered or exposed for sale or hire; or
- (d) distributed for the purpose of trade or otherwise.

Note: If the article or thing embodying the film or recording is dealt with as described in subsection (3), then copyright may be infringed not only by the making of the article or thing but also by the dealing with the article or thing.

- (4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the article or thing by the lender to a member of the lender's family or household for the member's private and domestic use.

2 Subsection 248A(1) (after paragraph (a) of the definition of *exempt recording*)

Insert:

or (aaa) an indirect cinematograph film or sound recording of a performance, being a film or recording that:

- (i) is made from a communication that is a broadcast of the performance; and
- (ii) is made solely for private and domestic use; or

3 Subsection 248A(1) (at the end of paragraphs (aa) to (m) of the definition of *exempt recording*)

Add "or".

4 Subsection 248C(1A)

After "paragraph", insert "(aaa),".

5 Subsection 248C(2)

After “(a),” insert “(aaa),”.

Part 2—Reproducing copyright material for private use

Copyright Act 1968

6 After section 43B

Insert:

43C Reproducing literary works for private use

- (1) This section applies if:
 - (a) the owner of a copy of a literary work (other than a computer program), not being an infringing copy, (the *original copy*) makes from it a reproduction (the *main copy*); and
 - (b) the main copy is made for his or her private and domestic use.
- (2) The making of the main copy is not an infringement of copyright in the work or a published edition of the work.

Dealing with main copy may make it an infringing copy

- (3) Subsection (2) is taken never to have applied if the main copy is:
 - (a) sold; or
 - (b) let for hire; or
 - (c) by way of trade offered or exposed for sale or hire; or
 - (d) distributed for the purpose of trade or otherwise.

Note: If the main copy is dealt with as described in subsection (3), then copyright may be infringed not only by the making of the main copy but also by the dealing with the main copy.

- (4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the main copy by the lender to a member of the lender's family or household for the member's private and domestic use.

Reproducing work from main copy may infringe copyright

- (5) Subsection (2) does not prevent the main copy from being an infringing copy for the purpose of working out whether this section applies again in relation to the making of another reproduction of the work from the main copy.

Disposal of book etc. may make the main copy an infringing copy

- (6) Subsection (2) is taken never to have applied if the owner of the original copy disposes of it (in the form from which the main copy was made) to another person.

7 After Division 4A of Part III

Insert:

Division 4B—Acts not constituting infringements of copyright in artistic works

47J Reproducing artistic work for private use

- (1) This section applies if the owner of a copy of an artistic work, not being an infringing copy, (the *original copy*) makes a reproduction (the *main copy*) of it for his or her private and domestic use; and
- (2) The making of the main copy is not an infringement of copyright:
 - (a) in the artistic work; or
 - (b) in a work, or published edition of a work, included in the original copy.

Dealing with main copy may make it an infringing copy

- (3) Subsection (2) is taken never to have applied if the main copy is:
 - (a) sold; or
 - (b) let for hire; or
 - (c) by way of trade offered or exposed for sale or hire; or
 - (d) distributed for the purpose of trade or otherwise.

Note: If the main copy is dealt with as described in subsection (3), then copyright may be infringed not only by the making of the main copy but also by the dealing with the main copy.

- (4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the main copy by the lender to a member of the lender's family or household for the member's private and domestic use.

Reproducing main copy may infringe copyright

- (5) Subsection (2) does not prevent the main copy from being an infringing copy for the purpose of working out whether this section applies again in relation to the making of a reproduction of the main copy.

Disposal of original may make the main copy an infringing copy

- (6) Subsection (2) is taken never to have applied if the owner of the original copy disposes of it to another person.

8 After section 109

Insert:

109A Copying sound recording for private use

- (1) This section applies if:
 - (a) the owner of a record embodying a sound recording makes a copy (the *main copy*) of the sound recording for his or her private and domestic use; and
 - (b) the record is not an infringing copy of the sound recording, a broadcast or a literary, dramatic or musical work included in the sound recording; and

- (2) The making of the main copy is not an infringement of copyright in the sound recording embodied in the record or in a literary, dramatic or musical work or other subject-matter included in the sound recording.

Dealing with main copy may make it an infringing copy

- (3) Subsection (2) is taken never to have applied if the main copy is:
- (a) sold; or
 - (b) let for hire; or
 - (c) by way of trade offered or exposed for sale or hire; or
 - (d) distributed for the purpose of trade or otherwise.

Note: If the main copy is dealt with as described in subsection (3), then copyright may be infringed not only by the making of the main copy but also by the dealing with the main copy.

- (4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the main copy by the lender to a member of the lender's family or household for the member's private and domestic use.

Copying main copy may infringe copyright

- (5) Subsection (2) does not prevent the main copy from being an infringing copy for the purpose of working out whether this section applies again in relation to the making of another copy of the sound recording from the main copy.

Disposal of record may make the main copy an infringing copy

- (6) Subsection (2) is taken never to have applied if the owner of the record disposes of it to another person.

9 After section 110

Insert:

110AA Copying cinematograph film for private use

- (1) This section applies if:
- (a) the owner of a copy of a cinematograph film (the *original copy*) makes a copy (the *main copy*) of the film in electronic form for his or her private and domestic use instead of the videotape; and
 - (b) the original copy is not an infringing copy of the film or of a broadcast, sound recording, work or published edition of a work; and
- (2) The making of the main copy is not an infringement of copyright in the cinematograph film or in a work or other subject-matter included in the film.

Dealing with main copy may make it an infringing copy

- (3) Subsection (2) is taken never to have applied if the main copy is:
- (a) sold; or
 - (b) let for hire; or
 - (c) by way of trade offered or exposed for sale or hire; or
 - (d) distributed for the purpose of trade or otherwise.

Note: If the main copy is dealt with as described in subsection (3), then copyright may be infringed not only by the making of the main copy but also by the dealing with the main copy.

- (4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the main copy by the lender to a member of the lender's family or household for the member's private and domestic use.

Disposal of original copy may make the main copy an infringing copy

- (5) Subsection (2) is taken never to have applied if the owner of the original copy disposes of it to another person.