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Copyright Briefing Forum for Interlibrary Lending British Library 28 November 2014



University of
Kent

Contents

- Introductions
- Copyright and Licensing
- Overview of UK Copyright Reforms
- Comparison of Copyright Exceptions
- Implications for libraries
- Summary and scenarios
- Links

Copyright and Licensing Compliance at Kent



What is copyright?

- A type of “Intellectual Property” covering creative works

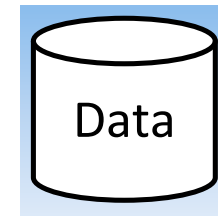
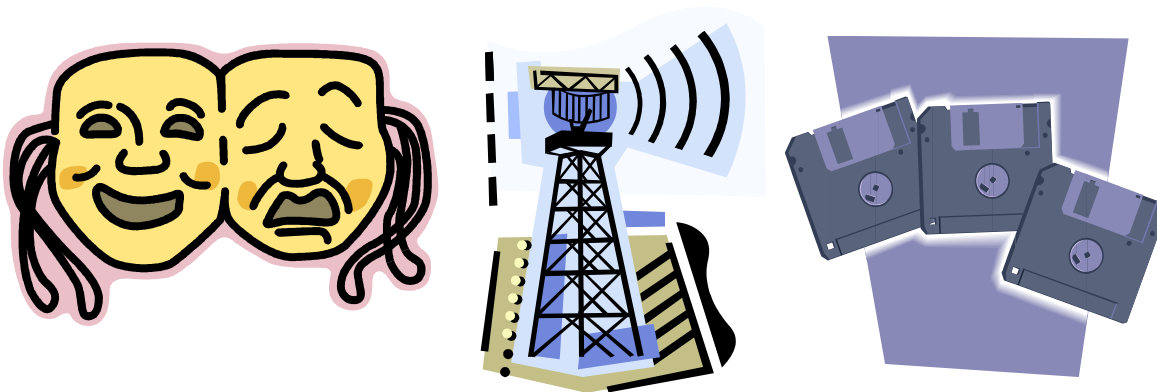
Others include:

- Moral rights
- Performance rights
- Database rights
- Design rights
- Trade Marks
- Patents
- Trade secrets (confidentiality)

Image: Alan Cleaver www.flickr.com/photos/alancleaver/4105747756/



Copyright and Related Rights



Copyright Restricted Acts

Under the Copyright, Designs and Patents Act 1988*
the owner of the work has the exclusive right:

- a) to copy the work
- b) to issue copies of the work to the public
- c) to rent or lend the work to the public
- d) to perform, show or play the work in public
- e) to communicate the work to the public
- f) to make an adaptation of the work or do any of the above in relation to an adaptation

* <http://www.legislation.gov.uk/ukpga/1988/48/contents>

So when can you use copyright material?

- If copyright has expired
- If you, or your organisation hold the rights
- If you have permission from the rights holder
- If you are relying on a legal defence

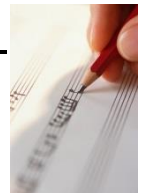
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Copyright Duration

Many different durations but the most relevant are:

- **Published literary, artistic, musical or dramatic works** – 70 years following death of the author
- **Typographical copyright** – 25 years from publication
- **Unpublished literary, artistic, musical or dramatic works** – *either* 70 years following death of the author *or* until 31 December 2039 (whichever is later) see #catch2039 [here](#)
- **Crown copyright** (UK Government) – *usually* 50 years after creation or publication
- **Sound recordings/film** – 70 years after date of creation/release or death of director/writer/producer



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Copyright as Property

- Has an “owner”



- May be “bought”, “sold” or “rented”

Licences

- Blanket licences such as CLA, ERA, PRS for Music and NLA
- Individual resources' or software's terms and conditions
- Specific permission acquired from creator/rights holder
- Creative Commons Licences
- Open Government Licence

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Hargreaves Review of IP and Growth



<http://www.ipo.gov.uk/types/hargreaves.htm>

Hargreaves Timeframe



Hargreaves' report May 2011

Enterprise & Regulatory Reform (ERR) Act - Royal Assent April 2013

New exceptions legislation published March 2014

Government response August 2011

Copyright Hub launched July 2013

All new exceptions effective 1 October 2014

Hargreaves recommendations

Rebalance Copyright Regime

Format Neutral

Future Proof

Representative of Digital Practice and Potential

Evidence Based

Copyright Exceptions

The following slides provide an overview of the copyright exceptions which are of key importance to UK higher education institutions and libraries. They are not comprehensive, nor do they provide full details of the provisions within the [Copyright, Designs and Patents Act 1988](#).

If you find anything in these slides which appears to be inaccurate or misleading please contact copyright@kent.ac.uk.

Key Exceptions to Copyright 1 of 3

S29 – Research and private study



S30 - Quotation (criticism and review)



S31 - Accessible copies for disabled users



S32 – Fair dealing for instruction



Key Exceptions to Copyright 2 of 3

S35 – Recording of broadcasts



S36 – Copying and extract of works by educational establishments



S41 – Library privilege copying for other libraries

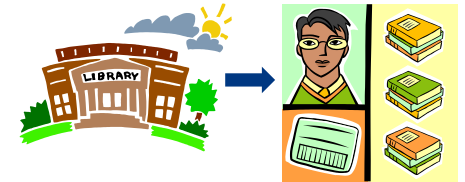


S42 – Library/archival preservation



Key Exceptions to Copyright 3 of 3

S42A – Library Privilege copying for patrons



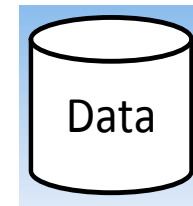
S43 - Library copies of unpublished works



S40B - Making works available on dedicated terminals



S29A - Text and data mining



No override by contract



Research and Private Study – S29



Before 1 June 2014

Limited 'fair dealing'

Non-commercial

Literary, dramatic, musical
and artistic works only

Contractual terms can
override exception

After 1 June 2014

Limited 'fair dealing'

Non-commercial

All copyright works including
sound recordings and films

No override by contract

Quotation (Criticism and Review) – S30



Before 1 October 2014

Criticism & review does not cover 'illustrative' use

Works must already have been made publicly available

After 1 October 2014

Widened to cover any reasonable quotation

Must have been made publicly available

Legitimises academic practice (citation)

Accessible copies for disabled users

- S31



Before 1 June 2014

Restricted to people with visual impairments only

Literary, dramatic, musical or artistic work

Contractual override

After 1 June 2014

Widened to all impairments which prevent equal access

All types of copyright work

No contractual override

Doesn't address DRM/TPM measures

Fair dealing for instruction – S32



Before 1 June 2014

Non-reprographic copying of literary, dramatic, musical and artistic works only

Wide examination exception (not music)

Sound recording/film exception

Acknowledgement required if practical

After 1 June 2014

Covers all copyright works including sound recordings, films and broadcasts

Examination exception narrowed ☹️

Copying can be reprographic

Must be fair dealing

Recording of Broadcasts – S35



Before 1 June 2014

Non-commercial
educational use

Dove-tails with ERA licence

‘Communication to the
public’ limited to on
premises

After 1 June 2014

Non-commercial
educational use

Dove-tails with ERA licence

‘Communication to the
public’ off premises via
secure electronic network

Copying and Use of Extract of Works by Educational Establishments – S36



Before 1 June 2014

Non-commercial

≤1% per work, per quarter,
per institution

Covers typographical
arrangement

Dove-tails with CLA licence

After 1 June 2014

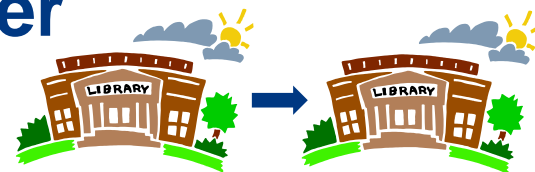
Non-commercial

≤5% per work, per year, per
institution

Includes incorporated
works (e.g. illustrations)

Dove-tails with CLA licence

Library Privilege Copying for Other Libraries – S41



Before 1 June 2014

Supply of a journal article or whole or part of literary, dramatic or musical work

Includes illustrations in context

Contractual override

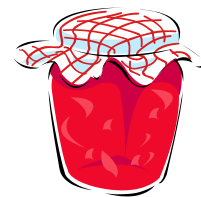
After 1 June 2014

Supply of journal article or whole or part of any published work

Will include sound recordings, films and broadcasts

No contractual override

Library/Archival Preservation – S42



Before 1 June 2014

Single copy of item in permanent collection

Literary, dramatic or musical work

Includes illustrations and typographical arrangement

Contractual override

After 1 June 2014

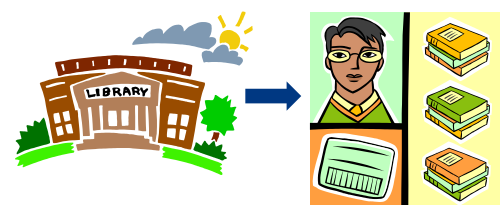
Copy an item in permanent collection

All types of copyright work

Items not publicly accessible or available on loan

No contractual override

Library Privilege Copying for Patrons – S42A



Before 1 June 2014

'Prescribed' libraries

Non-commercial research or private study

Article in a periodical or part of literary,
dramatic or musical work

Declaration form

Patron must pay cost of supply

Contractual override

After 1 June 2014

Not-for-profit library

Non-commercial research or private study

Reasonable proportion of any copyright
work

Declaration still required but not through
set form

Patron does not have to pay cost of supply

No contractual override

Library Copying of Unpublished Works

– S43



Before 1 June 2014

Literary, dramatic or musical works only

Work must not have been published prior to deposit

Copyright holder must not have prohibited copying

Single copies only may be provided

After 1 June 2014

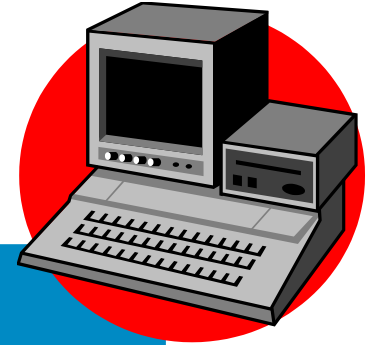
All types of copyright work

Work must not have been published prior to deposit

Copyright holder must not have prohibited copying

Single copies only may be provided

Making Works Available Through Dedicated Terminals – S40B



New exception

Relates to a publicly accessible library, educational establishment, museum or archive

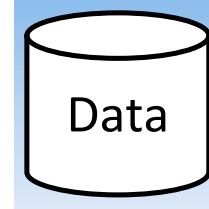
Allows collection items to be viewed on site through 'dedicated terminals'

Works must have been lawfully acquired

For research or private study

Access must be compliant with licensing terms if they exist

Text and Data Mining – S29A



New exception

Use of algorithms to determine relationships in data

Non-commercial use

Requires legitimate subscription/access to dataset

No override by contract

Orphan works

Works where rights holder is unknown or untraceable

Previously only a 'risk-managed' approach was possible

UK Orphan works provisions in the ERR Act 2013

EU Orphan Works Directive

Implemented in the UK on 29 October 2014

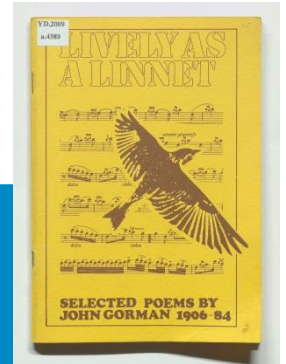
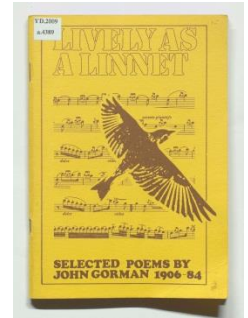


Image: Lively as a Linnet: selected poems. John Gorman (1906-1984). Plaistow Poets Press, 1986. [Orphan work](#).

Orphan Works



UK Licensing Scheme

Covers all types of Orphan Work
(inc photographs)

7 year licence term

Commercial and non-commercial
use

Requirement for reasonable
searches

Operated by [the IPO](#)

EU Directive

Covers all text and audio visual works
(but not artistic unless embedded)

Non-commercial use

Applies to cultural and educational
organisations

Reasonable searches recorded on a
database

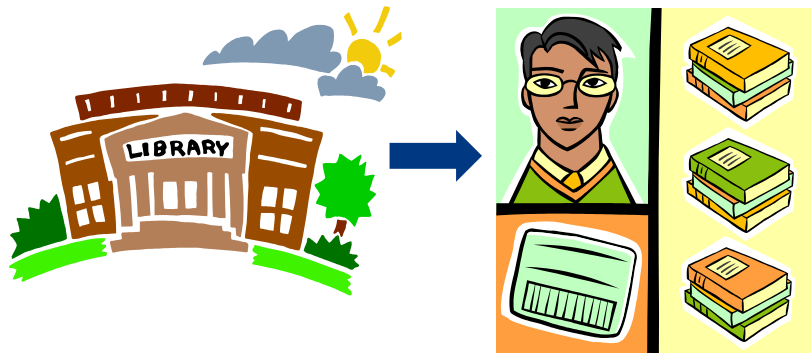
No geographical restriction or time limit

What is no override by contract?

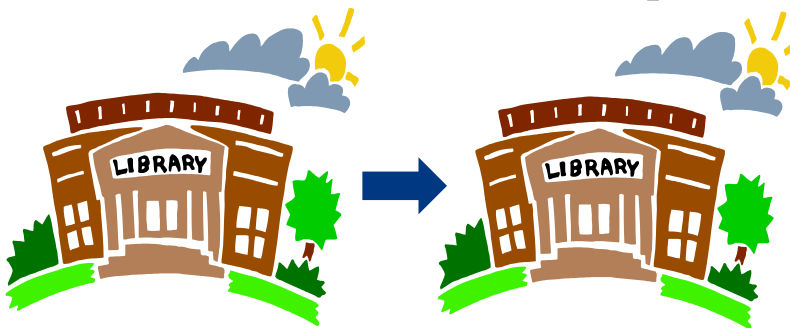
“To the extent that a term of a contract purports to prevent or restrict the doing of any act which, by virtue of this section, would not infringe copyright, that term is unenforceable.”

What is the implication of this for libraries?

?



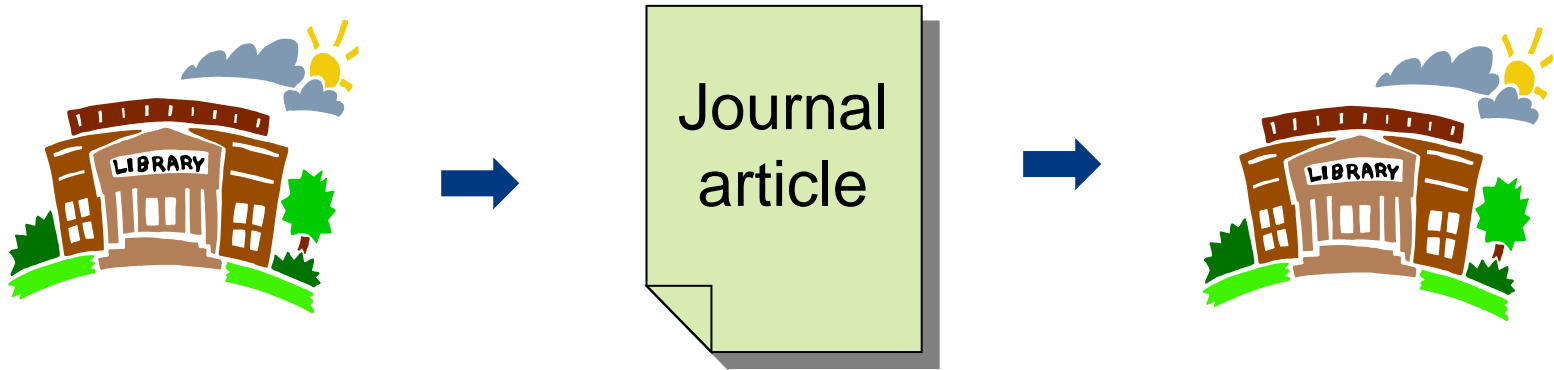
You need no longer check whether that use is permitted by your library resource contracts



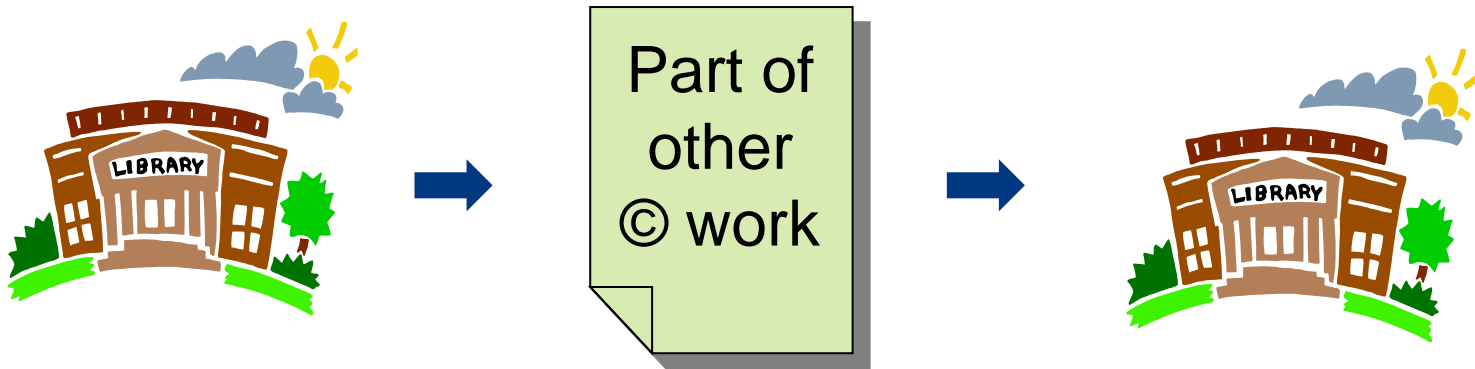
If your intended usage is covered by one or more of the exceptions



Providing documents for other libraries to add to their collections – S41



No need to request from rights holders

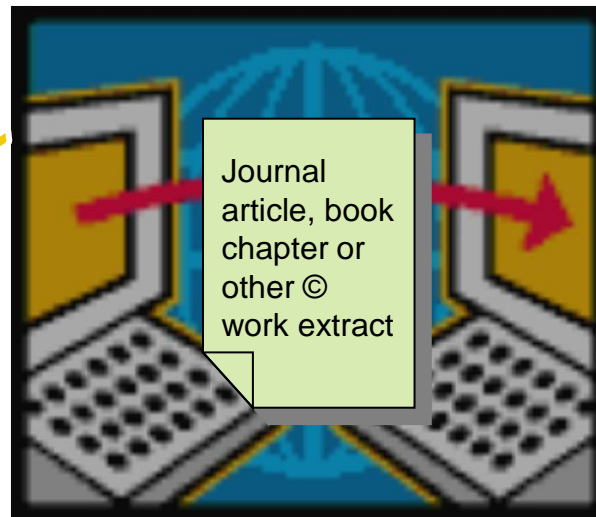
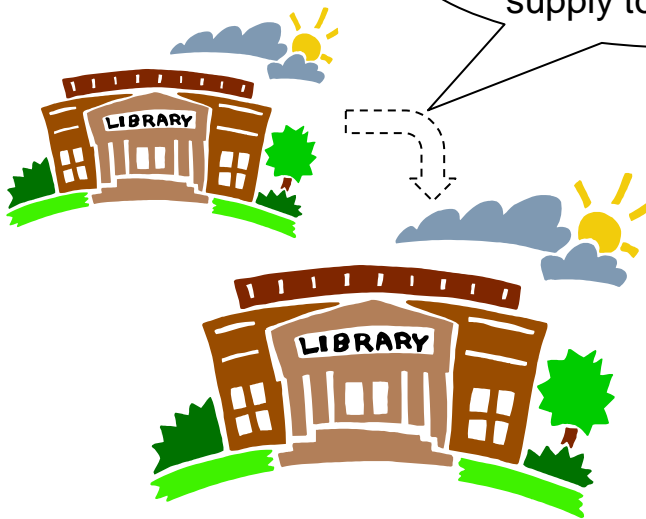


Only if you cannot identify rights holder

Providing documents to Patrons – S42A

No need for signed
paper declaration forms

Supports Inter-Library
Document Supply for
supply to end users

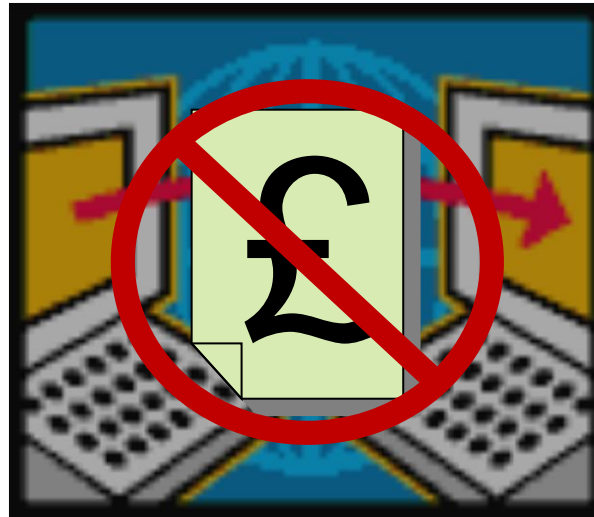


I agree this is
for my own
private
study...

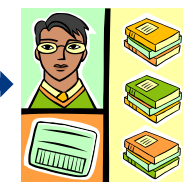
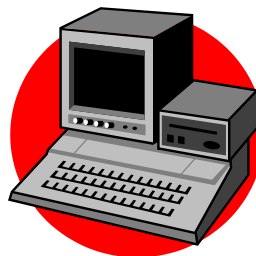
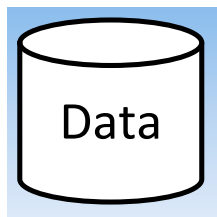


Providing Documents to Patrons – S42A

No requirement to charge library patrons for documents



Summary of New Exceptions



Contact and Credits

copyright@kent.ac.uk

@cbowiemorrison

With many thanks to Graham Cornish for his assistance in developing this presentation



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Links

- [IPO Guidance on changes to the law](#)
- [Copyright, Designs and Patents Act 1988](#)
- [Unofficial Consolidation of CDPA 1988](#)
- Statutory instruments for:
 - [Research, Education, Libraries and Archives](#)
 - [Quotation and Parody](#)
 - [Disability](#)
 - [Public Administration](#)
 - [Personal Copies for Private Use](#)
- [Library and Archives Copyright Alliance](#)
- [JISC Legal guidance](#)
- [Copyright Hub](#)
- [Copyrightuser.org](#)