Purpose

This procedure sets out the processes required to ensure compliance with the Copyright Act 1968. Federation University Australia is subject to laws relating to the provision of the Copyright Act 1968 and as such the University is committed to meet its obligations under the requirements of the Act, and the CAL and Screenrights licence agreements by ensuring that Part VA and Part VB and other relevant sections of the Act are adhered to.

The University is also committed to meeting its obligations under other agreements entered into in relation to the use of copyright material.

Scope

This procedure applies to all staff and students of the University.

Audio-Visual Copying and Communication.

Print and Graphic Copying and Communication.

Copying Outside Licence Agreements.

Software Copyright.

Penalties.

Definitions
| **The Act:** | **The Copyright Act 1968.** |
| **Administrative Copying:** | Copying for the administrative purposes of the University within limits. |
| **Authorised User:** | All staff, students, and other users who are authorised by the University to use its systems or network to access the Internet. |
| **CAL:** | Copyright Agency Limited - administers Part VB of the Act, print and graphic licence. |
| **Communication:** | To make available on-line or electronically transmit to staff and students of the University. Such communication explicitly excludes individuals who are neither staff nor students of the University; and entities which are not constituent parts of the University, or defined as “Affiliated Institutions” in University Agreements with Copyright Agencies. |
| **Copying Limits:** | The quantity of copying allowed, as defined by the Copyright Act. |
| **Copyright Regulations:** | Is a reference to Regulations made under the Copyright Act. |
| **Educational purposes:** | a. material used for teaching of students;  
b. copying / communicating to students as part of a course of study;  
c. a copy retained by the library (or a staff member) as a teaching resource;  
d. the administration of students and courses. |
| **Internal University Material:** | Documentation, graphic material, and any other material in any format, wholly generated within the University, and for which the University has copyright. |
| **Part VA:** | To that part of the Copyright Act, which provides the University with an Audio-Visual statutory licence. |
| **Part VB:** | To that part of the Copyright Act, which provides the University with a Print and Graphic statutory licence. |
| **Restricted Access:** | Access to staff and students of the University only. Such access explicitly excludes individuals who are neither staff nor students of the University; and entities which are not constituent parts of the University, or defined as “Affiliated Institutions” in the University's agreement with Copyright Agencies. |
| **Screenrights:** | Screenrights – administers the Part VA of the Act, audio-visual licence. |
| **Software:** | Computer instructions or data which are stored electronically. |
| **Staff:** | Any person employed by the University. This includes academic, teaching and general, full-time, part-time, sessional or casual. Staff, for the purpose of this policy only, also includes visiting Teaching and Research staff, Academic Associates and other contracted staff, University-based student and staff associations. |
| **Statutory Licence:** | The licence contained in the Copyright Act 1968 (Cth) whereby educational institutions are permitted to reproduce and communicate certain amounts of print and graphic or broadcast material for educational purposes. |
| **Student:** | Any person enrolled as a student of the University. This includes fulltime, part-time, block-mode or distance education students. |
The Act: The Copyright Act 1968.

Takedown Notice: To an electronic form whereby copyright owners, or their agent, are able to report any perceived copyright infringement, or a breach of an agreed licence or contract, on the University network.

Unauthorised User: Includes members of the public, staff and students from other educational institutions, who do not have access to the University Novell network and are NOT authorised users.

University: Federation University Australia.

Actions

Audio-Visual Copying and Communication

Part VA Statutory Licence

Audio-Visual copying and communication of Television, Radio, Cable and Satellite broadcasts.

Authority for Audio-Visual copying and communication
Under the University's agreement with Screenrights, staff are permitted to copy and/or communicate off-air television, radio, cable and satellite broadcasts and free to air broadcast material subsequently made available online by the broadcaster provided:

a. The copy/copies or communication is made solely for the 'educational purpose' of the University; and
b. The copy/copies and/or communication made in reliance on Part VA licence is/are properly labelled.

Who Can Make Copies and/or Communications and What Provisions Must Be Observed Under the Screenrights Agreement?

Staff may copy and/or communicate a television, radio, cable or satellite broadcast, either at home or at the University under the following provisions:

1. All copying and/or communication must be made for and on behalf of the University and 'solely for educational purposes' under Part VA Section 135E of the Act. If a copy or communication is subsequently used for any other purpose, or if it is sold or otherwise supplied for a financial profit, protection under the Act is lost.

2. Each analogue copy of a broadcast made under Part VA or any container in which a copy is kept, must be labelled in accordance with the Copyright Regulations. The label must contain the following information:

<table>
<thead>
<tr>
<th>Made for Federation University Australia under Part VA of the Copyright Act 1968</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date program was transmitted _________________________</td>
</tr>
<tr>
<td>Date this copy was made _____________________________</td>
</tr>
<tr>
<td>(if different)</td>
</tr>
</tbody>
</table>

There are no requirements to mark or label copies, which are made in electronic form (eg. a copy stored on a CD-ROM or computer hard drive).

3. All copies of television, radio or satellite broadcasts made under Part VA must be passed on to the Acquisitions Librarian, located at the Mt Helen campus library, where the material will be processed for inclusion in the appropriate library collection.
4. Access to copies made under Part VA is restricted to staff and students of the University. Inter library Loan of copies made under Part VA is not permitted, although a duplicate copy can be supplied, if the requesting institution has a current remuneration notice in force.

5. S.104B Notice

The Copyright Act provides for a notice to give legal protection to the University in case staff or students infringe copyright in audio-visual material (such as films or recorded music). A Dean of School or Director or Head of Section must ensure that the notice is displayed in the vicinity of, or attached to, any machine that can copy audio-visual material e.g. video cassette recorders (VCRs), cassette players, personal computers (PCs), or DVD writers.

**Note:** the law requires that the following notice be A4 in size (297 mm by 210 mm).

| Commonwealth of Australia Copyright Act 1968 |
| Notice about the copying of audiovisual items |
| **Warning** |
| Copyright owners are entitled to take legal action against persons who infringe their copyright. Unless otherwise permitted by the Copyright Act 1968 (the Act), unauthorised use of audio-visual items in which copyright subsists may infringe copyright in that item. |
| It is not an infringement of copyright in an audio-visual item to use that item in a manner that is a fair dealing under section 103C of the Act. |
| Section 103C of the Act relates to fair dealing for the purpose of research or study and sets out the matters that must be considered in determining whether a reproduction of an audio-visual item is a fair dealing. |
| A court may impose penalties and award damages in relation to offences and infringements relating to copyright material. |
| Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form. |

**Electronic Communication**

If electronic copies are communicated by electronic means such as the Web, power point or email, the following conditions must be complied with:

1. Each electronic or digital copy and/or communication MUST contain the following electronic notice:

| Commonwealth of Australia Copyright Act 1968 |
| Copyright Act 1968 |
| **Warning** |
| This material has been copied and communicated to you by or on behalf of Federation University Australia under Part VA of the Copyright Act 1968 (the Act). |
| The material in this communication may be subject to copyright under the Act. Any further copying or communication of this material by you may be the subject of copyright or performers’ protection under the Act. |
| Do not remove this notice. |

The above notice **MUST** appear either before or at the same time as the material being communicated appears on the screen.
2. Access to broadcasts made available electronically in reliance on PART VA is restricted to staff and students entitled to receive it - access must not be available to anyone else. 

Failure to comply with these provisions may lead to copyright infringement action.

Preview Copies

The Part VA licence contains provisions that allow the University to copy and preview broadcasts with a view to deciding whether to keep the copy. The preview provisions also apply to communications made within the preview period and for the purpose of allowing the University to take advantage of the preview provisions. If the preview provisions are not relied on, all copies made and communicated become licenced copies even if they are never used by staff or students.

The preview provisions are that:

• the copy of the broadcast must be made by or on behalf of the University; and
• the copy of the broadcast must be made and used solely for the purpose of enabling the University to decide whether or not the copy should be retained for the 'educational purposes' of the University.

Once a copy has been made, the University has 14 days during which to decide whether to retain the copy for the educational purposes of the University, or to wipe it. If the copy is shown or communicated to students, or otherwise used for the 'educational purposes' of the University during the 14-day period, the benefit of the preview provisions will be lost.

If the copy is to be retained and/or communicated, the marking provisions must be complied with.

Copying of Pre-Purchased or Rented Videos, Audio Tapes and CDs

The Part VA statutory licence does NOT cover copying pre-purchased or rented videos, audio tapes or CDs. Staff and students may not copy any pre-recorded videos, audio tapes or CDs under any circumstances without the prior written approval of the copyright owners except as permitted under legislative exceptions such as for Fair Dealing.

Downloading of Files (eg. Music, Films) From The Internet

The availability of audio-visual material (e.g. music files, films, video) on the Internet is not necessarily an indication that the material is copyright free or that it may be downloaded, copied, stored and/or communicated without the specific permission of the copyright owner. Material which does not support the educational purposes of the University cannot be downloaded, copied or communicated using University equipment or computer networks. This includes music or films which are in digital formats, accessible on Internet sites. The posting of music or other audio-visual files to University websites, the transfer of such files to other people (whether students or staff of the University, or associates, friends or family members) using University e-mail facilities, and the recording of music or other audio-visual material on CDs using University networks and equipment is prohibited.

Infringement of these provisions will be subject to action under the University's Use of Computing and Communication Facilities Policy.

Print and Graphic Copying and Communication

Part VB Statutory Licence (Print and Graphic Copying and Communication)
Multiple Copies Made Under Licence for Educational Purposes

Part VB of the Act imposes restrictions on what can be copied. The Act permits the University to make multiple copies of materials for the ‘educational purposes’ of the University, which could not otherwise be legally copied. 

The protection against infringement afforded by Part VB will be lost if the copy is, with the consent of the University, used for a purpose other than the educational purposes of the institution; made, sold or otherwise supplied for a financial profit; or given to an educational institution which does not at that time have a remuneration notice in force.

Notices

The University is required to have notices in place on or near equipment that can be used to copy and/or communicate copyright material. An Executive Dean of Faculty or Director of Section must ensure that these notices are appropriately placed.

s.39A Notice (hard-copy copying)

This is a standard copyright notice, which provides legal protection in the event that staff or students infringe copyright (in non audio-visual materials) using equipment supplied by the University.

An Executive Dean of Faculty or Director of Section must ensure that these notices are attached to or near photocopiers, scanners, PCs and any other equipment that is capable of copying in the print medium.

Note: the law requires that the following notice be A4 in size (297mm by 210mm).

<table>
<thead>
<tr>
<th>Commonwealth of Australia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Copyright Act 1968</td>
</tr>
<tr>
<td>Notice about the reproduction of works and the copying of published editions</td>
</tr>
<tr>
<td>Warning</td>
</tr>
</tbody>
</table>

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. Certain dealings with copyright will not constitute an infringement, including:

- a reproduction that is a fair dealing under the Copyright Act 1968 (the Act), including a fair dealing for the purposes of research or study; or
- a reproduction that is authorised by the copyright owner.

It is a fair dealing to make a reproduction for the purposes of research or study, of one or more articles in a periodical publication for the same research or same course of study, or, for any other work, of a reasonable portion of a work.

For a published work in hardcopy form that is not less than 10 pages and is not an artistic work, 10% of the number of pages, or one chapter, is a reasonable portion.

For a published work in electronic form only, a reasonable portion is not more than, in the aggregate, 10% of the number of words in the work.

More extensive reproduction may constitute fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in the subsection 40(2) of the Act.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.
If a machine can also copy audio-visual material (e.g. a PC which can be used to download images, text, films and recorded music), both the s.39A notice and the s.104B notice referred to above must be displayed together.

**Copying Limits**

The Act imposes limits on how much of a particular work can be copied either in hard copy form or electronically copied or communicated. Staff making copies of copyright material are responsible for ensuring that the copying complies with the licence and copying limits.

1. If making photocopies, irrespective of where the copying is done, the following limits apply:
   - **Articles in a periodical publication** - one article in an issue of a periodical can be copied. Two or more articles contained in the same issue of the publication may be copied if the articles relate to the same specific subject matter.
   - **Anthology** - a literary or dramatic work contained in a published anthology, and comprising not more than 15 pages of the anthology - the whole part of that work can be copied.
   - **All other copying of literary, dramatic, musical or artistic works** - a "reasonable portion" of the work can be copied. A "reasonable portion" is deemed to be no more that 10% of the pages in the edition, or one chapter (if the work is divided into chapters), whichever is the greater.
   - **Artistic works** - can be copied together with the text they explain or illustrate. If copied separately, the whole of an artistic work can be copied if it has not been separately published. If it has been separately published, the whole can be copied ONLY if the provisions relating to out of-print and unavailable works apply.
   - **Diagrams, maps and tables** - are considered to be artistic works and can be subject to copyright in their own right. They can be copied together with the text they explain or illustrate. If they are copied separately, the provisions relating to artistic works apply.
   - **Out of print or unavailable works** - more than 10% or one chapter can be copied only if the University is satisfied, after reasonable investigation, that copies (other than second-hand copies) of the work cannot be obtained within a reasonable time at an ordinary commercial price. The question of what constitutes a "reasonable time" depends on the particular situation. For example, it would not be considered "reasonable" to leave until the last minute an attempt to order a particular book, then claim the University was required to copy the entire book because it could not be delivered on time. The general rule of thumb which should be applied is:
     - six months for textbooks;
     - 30 days for other publications.
   - **Contact Federation University Library to ascertain if the material is available within a reasonable time.**

2. If copying from hard copy to electronic form (e.g. scanning a chapter of a book or journal article into digital form) the following limits apply:
   - **one article from a periodical publication**. Two or more articles may be copied where they relate to the same specific subject matter;
   - **for a literary or dramatic work** contained in a published anthology and comprising not more than 15 pages in the anthology, the whole work may be copied;
   - **for all other literary, dramatic, musical or artistic works**, a "reasonable portion" of the work may be copied. For a literary, dramatic or musical work, a "reasonable portion" is deemed to be 10% of the pages, or one chapter (whichever is the greater). If more than that is copied, it generally will not be a "reasonable portion", unless the person doing or requesting the copy is satisfied, after reasonable investigation, that copies (other than second-hand copies) of the work cannot be obtained within a reasonable time at an ordinary commercial price;
• the provisions relating to print copying of out-of-print or unavailable works also apply here, namely: - more than 10% or one chapter can be copied only if the University is satisfied, after reasonable investigation, that copies (other than second-hand) or the work cannot be obtained in a reasonable time, at an ordinary commercial price. The question of what constitutes a "reasonable time" depends on the particular situation. For example, it would not be considered "reasonable" to leave until the last minute an attempt to order a particular book, then claim the University was required to copy the entire book because it could not be delivered on time. The general rule of thumb which should be applied is:

• six months for textbooks;
• 30 days for other publications.

• Contact Federation University Library, to ascertain if the material is available, within a reasonable time.

3. If the work being copied or communicated is already in electronic form (e.g. off the web or from CD-ROM and subject to the licensing conditions for that electronic form) the following limits apply:

• one article from a periodical publication. Two or more articles may be copied where they relate to the same specific subject matter;
• for musical works that have been separately published, 10% of the work (unless the University is satisfied that the work is not available in electronic form within a reasonable time at an ordinary commercial price);
• only a "reasonable portion" of an electronic copy of a literary or dramatic work may be copied. A "reasonable portion" is deemed to be 10% of the words, or one chapter (whichever is greater). More than a "reasonable portion" cannot be copied, unless the person doing or requesting the copying is satisfied, after reasonable investigation, that the work is not available in electronic form within a reasonable time at an ordinary commercial price;
• artistic works - the whole of the work can be copied, there is no need to investigate whether a copy is separately available;
• the provisions relating to print copying, and copying from hard copy to electronic form, of out-of-print, or unavailable works, also apply to work being copied or communicated which is already in electronic form.

NB: A very important limitation on the communication of works is that if the University wishes to make available online a reasonable portion of work (other than an article contained in a periodical publication), it can only do so if no other part of the same work is made available at the same time.

4. Copying for off-shore students - if copies are made in Australia for enrolled off-shore students, they are licensed copies (unless an exception applies) and should be reported during the period of a sample. If the copies are not made in Australia, Australian copyright law will not apply.

Electronic Communication Under the Part VB Statutory Licence

1. On-line (Web) Communication related to Teaching and Learning.
   a. Web-sites hosted by the University and maintained by staff or students of the University and hot-linked to University web sites must not be used to communicate copyright material under the University's Part VB statutory licence.
      No materials for University teaching purposes (e.g. unit descriptions/outlines/other documents) may be communicated from a personal web address provided by a commercial internet service provider. (e.g. Yahoo, ozemail, Bigpond).
   b. On-line (web) communication of copyright material under the University's Part VB statutory licence must be arranged via the Library web-based Electronic Reserve system, or Learning Management System (eg. Moodle).
   c. The Library will ensure that its web-based Electronic Reserve system complies with the requirements in respect of web communication of copyright material in reliance on Part VB.

2. Other Electronic Communication.
   For electronic communication by means other than the web (e.g. power-point or email), the following conditions must be complied with:
a. each electronic or digital copy and/or communication MUST contain the following electronic notice:

```
Commonwealth of Australia
Copyright Act 1968
Notice for paragraph 135ZXA(a) of the Copyright Act 1968

Warning
This material has been reproduced and communicated to you by or on behalf of Federation University Australia under Part VB of the Copyright Act 1968 (the Act).

The material in this communication may be subject to copyright under the Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act.

Do not remove this notice
```

The above notice MUST appear either before or at the same time as the material being communicated appears on the screen.

b. The University must ensure that access to copyright material made available electronically in reliance on Part VB is restricted to staff and students entitled to receive it - access must NOT be available to anybody else.

c. The copying and communication limits as described in Copying Limits must be complied with.

**Music Licence**

The University has a commercial agreement with a number of copyright collecting societies allowing staff and students to perform, copy and communicate the majority of commercial sound recordings for educational purposes and for use at University events.

The following collection societies are part of the agreement. More information about the societies and their repertoire is available from their websites.

- Australasian Performing Right Association (APRA)
- Australasian Mechanical Copyright Owners' Society (AMCOS)
- Phonographic Performance Company of Australia (PPCA)
- Australian Record Industry Association (ARIA)

**Music uses granted under the Licence**

**Reproducing Music**

Staff and students may reproduce audio recordings of copyright musical works for educational purposes if the reproduction is to be played at a University event, or is a recording of a University event where copyright musical works are being played. Audio recordings of copyright musical works may also be reproduced for analysis as part of a course of instruction.

**Making videos which include music**
Staff and students may make video recordings which include audio recordings of copyright musical works for educational purposes. The videos must be of a University event, or made as part of a course of instruction.

Video recordings made of University events which include audio recordings of copyright musical works can be used by staff and students for their own private and domestic purposes.

**Performing music**

Copyright musical works and sound recordings of copyright musical works may be performed (or played):

- in public for the educational purposes of the University;
- in public at University events; and
- in public for the sole benefit of employees in the workplace of the University

**Music on hold**

Copyright music recordings may be played (communicated) by means of music on hold.

**Distributing copies of music recordings**

The University may supply copies of recordings of University events for students or staff for their own private or domestic purposes. The University must not commercially profit from the supply of such recordings (i.e. supply of recordings must be on a cost-recovery basis only)

Copies of recordings of University events which include copyright musical works must be supplied with the required notice and labelling (see labelling and notices below)

A copy may be held in the institution’s archives for access by students and staff only.

Recordings may not include any advertising or promotional material.

**Communicating audio recordings of musical works**

Audio recordings of musical works may be communicated online to students and staff only. Access must be restricted to staff and students. The recordings must be available in a streaming only format (i.e. cannot be downloaded). Recordings stored and made accessible online are subject to survey under the licence (See music licence survey below)

Notices and labelling containing full details of the title, composer, lyricist, arranger, artist/group and record company must accompany the supply of musical recordings.

Recordings made accessible through the University's intranet and/or Learning Management System (e.g. Moodle) must be arranged through the University Copyright Office.

**Labelling and notices**

Copies of recordings containing copyright musical works made under the music licence must have the following notice and labelling attached:

<table>
<thead>
<tr>
<th>COPYRIGHT NOTICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>This recording has been made by Federation University Australia under the express terms of an educational licence between it, ARIA, AMCOS, APRA and PPCA and may only be used as authorised by the University pursuant to the terms of that licence.</td>
</tr>
</tbody>
</table>

Warning - Uncontrolled when printed! The current version of this document is kept on the FedUni website.
Uses of music NOT permitted under the music licence

Reproducing, downloading and communicating

The music licence does not include the right to:

- reproduce communicate, transmit or perform any infringing (illegal) copy of a musical work or audio recording;

Performances in an artistic or dramatic context

The music licence does not include the right to perform or make a video recording of performances of:

- a Grand Right Work
- a Choral Work of more than 20 minutes
- a musical work or excerpts of that work performed in a dramatic context

Copying or communicating sheet music

Reproducing and communicating sheet music or printed lyrics is not covered by the music licence.

Copying Outside Part VA, Part VB and Music Licences

Software Copyright

Software Copyright and Contracts

The University has contracts with software vendors which enables the use of that software by specific groups of computer users, or for specified applications. These contracts acknowledge the ownership of the copyright in the software. The use of such software outside the terms of the contracts is prohibited, specifically:

1. Unless authorized by the copyright owner, software cannot be copied on University computers or personally owned computers using University network facilities.
2. Software cannot be loaned for use outside the unit/function for which it is licensed.
3. Software manuals may only be copied in accordance with the provisions of the University Copyright Procedures.
4. University funds cannot be used to purchase software that has been copied without approval of the copyright owner.
5. Illegally copied software from any source cannot be run on University computers or personally owned computers using University network facilities.

Penalties
Penalties for Breaches of the Copyright Act, Screenrights and CAL Agreements

Staff and students who flagrantly disregard the University Copyright Procedure will be liable to disciplinary action under their contract of employment or the Student Disciplinary Statute as appropriate. Failure to observe the requirements of the Part VA and VB statutory licences may lead to legal action against the University and/or the withdrawal of the University's right to copy.

Further Information

The University pays an annual fee for copying and/or communication of copyright material under its Part VA and VB licences. The University currently operates under a Sampling system with both CAL and Screenrights. This obviates the need to maintain daily copying records, other than may be prescribed in any Agreement between Universities and Copyright Agency Ltd., or Screenrights Ltd., (as negotiated by Universities Australia).

Responsibilities

The Director Library Services is responsible for the management of copyright within the University. Specific responsibilities are included in under Actions.

Policy Base

- The Commonwealth of Australia Copyright Act 1968.
- Copyright Amendment (Digital Agenda) Act 2000.
- Statute 6.1 - Student Discipline.
- Statute 8.2 - Intellectual Property.
- Regulation 6.1 Student Discipline.

Associated Documents

- Student Plagiarism Policy.
- Use of Computing and Communication Facilities Policy.
- Copyright Take Down Procedure
- The University "Copyright at the University" website.

Implementation

The Copyright Procedure will be implemented throughout the University via:

1. an Announcement Notice under ‘FedNews’ on the University Homepage website and through the University Policy - ‘Recently Approved Documents’ webpage to alert the University-wide community of the approved Procedure; and

2. inclusion on the University's online Policy Library.