

Performance of Copyright Works as Part of Educational Instructions

General rule

Copyright owners have exclusive rights granted to them under the Copyright Act 1968 ("the Act") which includes the right to perform a literary, dramatic or musical work "in public" or cause a film or record to be seen and/or heard "in public". Other rights include radio and television broadcasting to the public.

Under the Act the permission of the copyright owner must be obtained before the copyright material is performed "in public". The Courts have given the term "in public" a very wide meaning to include school concerts, dances and staff development training programs.

Exception

Under the Act, however, the permission of the copyright owner is not necessary where a literary, dramatic or musical work, sound recording or film is performed:

- in class or otherwise in the presence of an audience; and
- by a teacher in the course of giving educational instruction, not being instruction given for profit, or by a student in the course of receiving such instruction; and
- the audience is limited to persons who are taking part in the education instruction or otherwise directly connected with the place where the instruction is given (not parents or other family members).

Under the above exemption, sound recordings (which includes cassettes or compact discs), films or videos will be able to be played or shown in a lecture without infringing the copyright of the owner.

Obligation under an agreement overriding exception

Care should be taken, however, in relation to some copyright works that there are no restrictions imposed on the use of the works under a contract. For instance, screening of rented videos outside the home (the private and domestic use) may not be permitted under an agreement between the hirer and the video outlet. Similarly, in the case of purchased videos there may be restrictions imposed on the purchaser.

If you have any queries, please contact Legal Services for advice on 9479 2495.

This article provides general information only. It is not a complete or definitive statement of the law on the subject matter. Formal legal advice should be sought in relation to particular matters.

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