

Copyright Guidelines for Research Higher Degree Candidates for Submission of Theses to QUT ePrints

These guidelines cover the particular issues for submission of theses to QUT ePrints. For a general introduction to copyright, consult the [General information](#) section of the *QUT Copyright Guide*.

Meaning of “copyright materials”

In these guidelines, “copyright materials” means any text, diagram, chart, table, image, computer program, musical notation, sound recording, film/video, broadcast, or any other work or subject matter, that you have reproduced in your thesis, the copyright in which is owned by someone other than yourself.

If you have reproduced a copyright computer program, you are bound by the conditions of the licence under which you acquired it as to whether you can include it in QUT ePrints.

Background on copyright

The *Copyright Act 1968* Cth gives copyright protection to “works” and “subject matter other than works”.

“Works” are:

- literary works (including computer programs)
- dramatic works
- musical works (compositions)
- artistic works.

“Subject matter other than works” are:

- cinematograph films, which includes videos
- sound recordings
- broadcast signals
- published editions of works, which refers to the layout and typography of printed works

The *Copyright Act 1968* Cth grants certain exclusive rights to copyright owners. Two of these rights that are involved in QUT ePrints are:

- The right to reproduce the work in a material form
- The right to communicate the work to the public

In putting a student thesis online through QUT ePrints, QUT is exercising these exclusive rights so they must be sure to have the permission of the copyright owner. You as the PhD candidate own the copyright in your original work contained in your thesis but you have given QUT permission to communicate your work to the public via QUT ePrints as that is a requirement of thesis submission. If you have reproduced the whole or a substantial part of other people’s works in your thesis, then QUT needs to be assured that those copyright owners have also granted permission for their work to be reproduced and put online as part of a QUT ePrints thesis.

When do I need to get permission?

If you deal with works in any of the ways exclusively reserved to the copyright owners without their permission, you infringe their copyright. To avoid infringement, you will need to get permission to reproduce and communicate someone else’s work in your thesis.

You do not need to get permission if:

- the copyright has expired;
OR
- the amount does not constitute a ‘substantial part’ of the work copied;
OR

- a special exemption applies.

When does copyright expire?

Copyright in published works lasts for the life of the creator plus 70 years, as a general rule. Copyright in published films, videos and sound recordings lasts for 70 years after first publication, as a general rule. You do not need to get permission to reproduce works no longer in copyright.

The term of copyright under Australian law was extended from life/publication plus 50 to life/publication plus 70 years as from 1 January 2005. Material out of copyright on 1 January 2005 stays out of copyright. For more information, consult the guideline [Duration of copyright](#).

However, a recent reprint of an out-of-copyright work may have new typography and layout. If you are reproducing such a work as a facsimile of the printed page, be careful about the copyright in the published edition. The published edition copyright lasts for 25 years after the end of the first year of publication. If you are simply quoting the words in your thesis, the question of the published edition does not arise.

Special conditions apply to unpublished works. If you have quoted unpublished material, you should seek advice from the [University Copyright Officer](#).

Is there an exception for fair dealing?

In certain circumstances, the Copyright Act allows you to exercise the rights of the copyright owner without permission and without payment. For instance, it is not an infringement to make a 'fair dealing' with copyright material for the purpose of 'research or study' (s40 and s103C) or 'criticism or review' (s41 and s103A) or 'parody or satire' (s41A and s103AA).

If you as a student reproduced reasonable portions of copyright material in your thesis submitted for examination, you were operating under the exception granted for fair dealing for research or study. For research or study purposes, the reproduction of a 'reasonable portion' of a work is deemed to be fair. In brief, a 'reasonable portion' is 10% or one chapter of a book, or one article from a periodical.

However, when QUT communicates the thesis to the public by means of QUT ePrints, the purpose of the reproduction and communication is not research or study. Therefore, it cannot claim the defence of fair dealing on that ground, in the event of an action for infringement.

In some cases, QUT might be able to claim a defence to infringement on the grounds that the reproduction of a work within your thesis is for the purpose of (a) criticism or review, or (b) parody or satire, and it is fair.

For the exception for criticism or review to apply, you must submit the work or quoted extract to direct critical analysis, not simply use it for illustration or enhancement. If your thesis contains a parody or uses copyright material for satirical purposes, seek advice from the University Copyright Officer.

What is a substantial part of a work?

The Act states that infringement occurs if you deal with the whole or a 'substantial part' of the work. Unfortunately, the Act does not define a 'substantial part'. Case law has established that a 'substantial part' may be any part that is important, distinctive, or recognizable, and not necessarily substantial in terms of length. It is a matter of both quality and quantity. It depends on the circumstances of each case whether a part is so important that permission is needed to reproduce it. The purpose of the use may also be relevant; if you are using the part for a commercial purpose or to include in a competing work, it is more likely you will need permission.

Do not confuse the concept of a 'substantial part' with the 'reasonable portion' permitted under the fair dealing for research or study provision. A 'substantial part' will be much less than the 'reasonable portion' permitted for research or study.

Substantial part of a literary, dramatic or musical work

To assist you to decide whether your quotation constitutes a substantial part of the quoted work, the following guidance is offered.

Text

For the purposes of QUT ePrints, your quotation is probably not substantial if you quote no more than 400 words in a single continuous extract, and no more than 600 words in total, from any single scholarly monograph or other full-length non-fiction book, so long as the total does not amount to more than 1% of the work quoted. This rule of thumb applies only to quotations from scholarly monographs and other full-length non-fiction books.

For all other texts, such as works of fiction, plays, poems, essays, periodical articles, conference papers, research papers, song lyrics, and tables, you should make an assessment yourself as to whether your quotation would be a substantial part of the work. If in doubt, err on the side of caution, and seek permission.

Musical works

For musical compositions, you should make an assessment as to whether your quotation would be a substantial part of the work. If in doubt, err on the side of caution, and seek permission.

Substantial part of an artistic work

This is how the *Copyright Act 1968* Cth defines an artistic work (s10):

artistic work means:

- (a) a painting, sculpture, drawing, engraving or photograph, whether the work is of artistic quality or not;
 - (b) a building or a model of a building, whether the building or model is of artistic quality or not; or
 - (c) a work of artistic craftsmanship whether or not mentioned in paragraph (a) or (b);
- but does not include a circuit layout within the meaning of the *Circuit Layouts Act 1989*.

An image of any kind falls under this definition, whether of artistic merit or not. Each image constitutes an artistic work in itself. For example, a page of a book with six anatomical illustrations contains six separate copyright works. If you have reproduced the whole or a substantial part of any copyright image in your thesis, you will need to obtain permission.

If you have taken a photograph yourself of an original work of art created by someone else, you may own the copyright in the photo, but you do not own the copyright in the original work of art. In these cases, you must get permission from the copyright owner to make your photograph available online. The copyright owner is usually the artist, not the owner of the physical object. Even if the artist permitted you to take the photo, check that the permission included the right to put it online.

There are some exceptions to the last paragraph –

- buildings and models of buildings
- sculptures and works of artistic craftsmanship permanently located in a public place or in premises open to the public

You do not need the copyright owner's permission to photograph or make a painting or drawing of works that fall into these categories, nor do you need permission to publish or communicate your picture.

Substantial part of a film/video, sound recording or broadcast signal

This is a very difficult area to judge. You must obtain permission for the inclusion of any extract in your thesis.