



Australian Government

Department of Education, Employment and Workplace Relations

BSBIPR401A Use and respect copyright

Revision Number: 1

BSBIPR401A Use and respect copyright

Modification History

Not applicable.

Unit Descriptor

Unit descriptor	<p>This unit describes the performance outcomes, skills and knowledge required to use and respect copyright. It covers maintaining control over the copyright owner's work, commercialising copyright material, preventing the unauthorised use of an original work, and using other party's original work legitimately.</p> <p>No licensing, legislative, regulatory or certification requirements apply to this unit at the time of endorsement.</p>
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Application of the Unit

Application of the unit	<p>This unit applies to people who may be authors, creators or other owners of works covered by copyright. It also applies to employees who have a role in ensuring that their organisation's copyright is protected and/or that their organisation uses others' copyright appropriately to benefit the organisation without infringing the rights of copyright owners. These people may work in a wide range of industry and business contexts.</p>
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Licensing/Regulatory Information

Not applicable.

Pre-Requisites

Prerequisite units		

Employability Skills Information

Employability skills	This unit contains employability skills.
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Elements and Performance Criteria Pre-Content

Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge section and the range statement. Assessment of performance is to be consistent with the evidence guide.
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Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Identify extent of copyright protection for original works	1.1. Research copyright and its application to original works 1.2. Identify legislative requirements governing copyright 1.3. Determine the copyright owner of original works within or used by the organisation 1.4. Research the rights of the copyright owner , including moral rights 1.5. Determine whether a copyright notice is required 1.6. Identify sources of information and advice regarding copyright issues and use copyright professionals where required
2. Ensure that copyright protection is effective when using original works	2.1. Identify material within the organisation that may attract copyright 2.2. Identify and review organisation policies and procedures to ensure that own and others' original works are protected against direct or indirect infringement of copyright 2.3. Implement policies and procedures to protect the organisation's copyright, recognising exceptions that allow the legitimate use of own copyright material by others 2.4. Provide advice to relevant personnel about the legal and economic implications of copyright infringement 2.5. Evaluate and make recommendations for the commercialisation potential of copyright material 2.6. Research issues that need to be considered when licensing or selling copyright rights, including the use of copyright collection societies
3. Monitor policies and procedures for use of own copyright materials by other parties	3.1. Monitor policies and procedures to ensure that the organisation's copyright is respected locally and internationally 3.2. Create and maintain documentation in relation to copyright agreements where established 3.3. Implement procedures to limit or deter infringement of organisation's copyright and/or encourage the proper use of the organisation's copyright 3.4. Make recommendations to appropriate personnel when real or potential infringements of organisation's

ELEMENT	PERFORMANCE CRITERIA
	copyright may require <i>further action</i>
4. Monitor policies and procedures for legitimate use of others' copyright materials	<ul style="list-style-type: none">4.1. Research when permission is needed to use copyright material belonging to others4.2. Advise appropriate personnel about <i>restrictions</i> on and licensing requirements for the use of others' copyright material, and implement training if required4.3. Advise appropriate personnel of legislative exceptions that allow use of copyright material without permission4.4. Monitor policies and procedures covering organisational use of others' copyright material to ensure it is to the benefit of the organisation4.5. Monitor organisational use of others' copyright material to reduce the risk of infringement4.6. Take action to minimise damage if infringement of others' copyright material occurs

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

This section describes the skills and knowledge required for this unit.

Required skills

- research skills to identify a range of issues and information relating to copyright ownership and use
- organisational skills to review and maintain policies and procedures
- communication skills to provide relevant advice to others about copyright protection
- problem solving skills to monitor copyright policies and procedures and make recommendations for action if required
- technology skills to research copyright information

Required knowledge

- principal features of legislative framework for copyright and its application to the organisation:
 - Australia
 - Copyright Act 1968 and Copyright Regulations 1969
 - internationally
 - WIPO Treaties, in particular the Berne Convention, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty
 - International Trade Agreements, in particular the WTO TRIPS Agreement and the impact of free trade agreements to which Australia is a party (including AUSFTA)
- what works are protected by copyright and how long copyright lasts
- rights of copyright owners
- sources of information and advice on copyright
- methods for preventing unauthorised use of copyright material and action to take if infringement of copyright occurs
- when authorisation for use of copyright materials is needed and how to obtain it
- licensing and the role of collecting societies
- open source copyright licences, such as creative commons, AShareNet, NEALS, GPL and other similar licences for copyright material
- impact of the internet on copyright

Evidence Guide

EVIDENCE GUIDE

The Evidence Guide provides advice on assessment and must be read in conjunction with the performance criteria, required skills and knowledge, range statement and the Assessment Guidelines for the Training Package.

Overview of assessment

Critical aspects for assessment and evidence required to demonstrate competency in this unit

Evidence of the following is essential:

- identification of issues for the use, management and protection of original works with copyright
- implementation of policies and procedures for the use, management and protection of original works with copyright and legitimate use of others' original material

Context of and specific resources for assessment

Assessment must ensure:

- access to relevant information on the individual or organisation's copyright requirements and procedures
- access to reliable and appropriate explanatory material and guidelines
- access to appropriate computer resources for establishment and maintenance of policies and procedures

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following examples are appropriate for this unit:

- direct questioning combined with review of portfolio of evidence
- oral or written questioning to assess knowledge of copyright and its implications for the organisation
- development of action plans for implementation of copyright policies and procedures, and commercialisation of original works
- analysis of case studies around copyright issues, with recommendations for action

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended, for example:

- other units from BSB07 including other units relating to intellectual property

Range Statement

RANGE STATEMENT

The range statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. Bold italicised wording, if used in the performance criteria, is detailed below. Essential operating conditions that may be present with training and assessment (depending on the work situation, needs of the candidate, accessibility of the item, and local industry and regional contexts) may also be included.

Copyright refers to:

- the protection of the original expression of ideas from copying and certain other uses, but not the ideas themselves
- a large range of works, including:
 - works of art and design, and graphic representations, e.g. drawings, maps, community art
 - literature and other written material, e.g. reports, manuals, guides
 - music, e.g. tunes, lyrics
 - sound recordings
 - films and other moving images
 - drama and dance
 - broadcasts
 - computer programs, software, games
 - online or digital content
 - traditional knowledge

Legislative requirements may include:

- Copyright Act 1968
- Copyright Regulations 1969

Copyright owner may be:

- creator of the work
- employer where the employee creates a work in the course of employment as part of their usual duties, or is contracted to create the work for the employer
- person to whom copyright has been assigned
- person who arranged for a film or sound recording to be made
- person who commissioned design work on a commercial basis
- State, Territory or Federal Government for material created under their direction or control

RANGE STATEMENT	
	<ul style="list-style-type: none"> Note: there could be more than one owner of copyright
<i>Rights of the copyright owner</i> may include:	<ul style="list-style-type: none"> the exclusive right to reproduce, publish, communicate to the public, publicly perform and adapt material assigning their rights to others so that another party becomes the owner or exclusive licensee of the rights licensing their rights, giving another party the permission to use the copyright material but not own the rights licensing of rights associated with derivative works of copyright material, including: <ul style="list-style-type: none"> exact copies enhancements supplementary works compilations <p>(For example license to use computer software programs - specialist legal advice should be obtained)</p> <p>Note: different rights attach to different types of copyright and the term of copyright may also differ</p>
<i>Moral rights:</i>	<ul style="list-style-type: none"> refer to the personal legal rights of individual creators in the copyright works they have created. They are separate from the economic rights of the copyright owner and may be held by different people include the right of creators: <ul style="list-style-type: none"> to be attributed not to have their work falsely attributed not to have their work treated in a derogatory way
<i>Copyright notice</i> may refer to:	<ul style="list-style-type: none"> the copyright symbol © name of the copyright owner year of creation or first publication

RANGE STATEMENT	
	Note: a copyright notice is not required to obtain copyright protection in Australia, but is recommended to clearly indicate to others that the work is protected and to identify the copyright owner
<i>Sources of information and advice</i> may include:	<ul style="list-style-type: none"> • IP Australia • Attorney-General's Department • Australian Copyright Council • State and Commonwealth government agencies • lawyers specialising in intellectual property, including trade mark attorneys and patent attorneys • accountants • business advisors • marketing consultants • branding consultants • copyright collecting societies, e.g. CAL, PPCA, MIPI, APRA, AMCOS • publications • websites, Internet • databases, e.g. local and international trade mark databases
<i>Policies and procedures</i> may relate to:	<ul style="list-style-type: none"> • information technology and computer usage • computer security measures • employment contracts, including responsibility for intellectual property • confidentiality agreements within the organisation or among people who may need to know about the copyright material, so as to keep the copyright secret prior to commercialisation
<i>Direct infringement</i> of copyright may include:	<ul style="list-style-type: none"> • when a person, without the copyright owner's permission: <ul style="list-style-type: none"> • reproduces the work (or a substantial portion thereof) in a material form • publishes the work • communicates the work to the public • in the case of literary, dramatic and musical works, performs the work in public

RANGE STATEMENT	
	<ul style="list-style-type: none"> • adapts the work
<i>Indirect infringement</i> of copyright may include:	<ul style="list-style-type: none"> • when a person authorises or facilitates another person to infringe copyright, including through 'inactivity' or 'indifference' • when a person, without the copyright owner's permission, imports certain articles into Australia, e.g. to sell, distribute, exhibit or hire, when the article if made in Australia would have been an infringement of copyright
<i>Implications of copyright infringement</i> may include:	<ul style="list-style-type: none"> • legal and economic implications of not complying with copyright legislation • legal and economic implications of others infringing the individual or organisation's copyright
<i>Commercialisation potential</i> could include:	<ul style="list-style-type: none"> • licensing or transferring use of original work • profiting from the sale of the original work • developing a product or creative work under a government grant or other funding source and taking it to a commercial product stage
<i>Copyright collection societies</i> refer to:	<ul style="list-style-type: none"> • societies that license, collect and distribute royalties on behalf of the copyright owners they represent
<i>Locally</i> refers to:	<ul style="list-style-type: none"> • copyright protection within Australia which, under the Copyright Act 1968, exists automatically when something is written down or recorded in accordance with the requirements of the copyright legislation
<i>Internationally</i> refers to:	<ul style="list-style-type: none"> • copyright protection in other countries. Copyright is protected by national laws of each country, usually based on international conventions
<i>Procedures to limit or deter infringement</i> may include:	<ul style="list-style-type: none"> • making sure there is a copyright notice on all work • statement on works outlining preferred licensing arrangements • access codes in software • encrypting • express agreements on copyright ownership, particularly when work is outsourced
<i>Further action</i> could include:	<ul style="list-style-type: none"> • seeking legal advice • contacting publisher if the work is published • civil actions, including informal negotiations

RANGE STATEMENT	
	and letters of cease and desist <ul style="list-style-type: none"> • court order, including: <ul style="list-style-type: none"> • order to seize infringing goods • injunctions • monetary damages/compensation
Restrictions may include:	<ul style="list-style-type: none"> • not using others' copyright material without authorisation from the copyright owner Note: there are some limited exceptions: <ul style="list-style-type: none"> • fair dealing for the specific purposes of research or study, criticism or review, and news reporting • reproduction of computer programs, e.g. in the technical processes of running the program, for back-up copy, to correct errors • copying industrial products

Unit Sector(s)

Unit sector	
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Competency field

Competency field	Regulation, Licensing and Risk - Intellectual Property
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Co-requisite units

Co-requisite units		