

**Note for Libraries of Educational Establishments on
(1) Copyright (Specified Libraries, Museums and Archives under
Sections 47 to 53) Notice (“Notice”) and
(2) Copyright (Libraries, Museums and Archives—
Prescribed Conditions for Making Copy) Regulation (“Regulation”)**

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Purpose

This note is designed to help school libraries prepare for the commencement of the Notice and the Regulation on **1 January 2026**. It **highlights the key features or requirements of the Notice and the Regulation for the permitted acts¹ under sections 47, 48, 50 and 52 of the Copyright Ordinance (“CO”)²**, as those permitted acts are of core interest to the libraries of educational establishments and apply to different scenarios. Libraries of educational establishments may choose to rely on the appropriate permitted acts according to their own collections, operational models and resources in order to meet the needs of the establishments.

¹ In determining whether an act qualifies as a permitted act, the primary consideration is that the act does not conflict with a normal exploitation of the work by its copyright owner and does not unreasonably prejudice the legitimate interests of the copyright owner (section 37(3) of the CO).

² For the requirements of other permitted acts for specified libraries, museums and archives under sections 51, 51A, 52A and 53 of the CO, please refer to the relevant sections in the CO, the Notice and the Regulation.

Background

Sections 47 to 53 of the CO provide for permitted acts which allow specified libraries, museums and archives (“LMA”) to, under certain specific circumstances and subject to compliance with the relevant prescribed conditions, reasonably use copyright works without the copyright owners’ licence and without infringing copyright. These permitted acts aim at facilitating the reasonable use of copyright works in the collections of the specified LMA during their daily operations in order to promote research, private study, as well as knowledge dissemination and preservation of historical and cultural heritage.

In this connection, two pieces of new subsidiary legislation, namely the Notice and the Regulation, were made for the purposes of the permitted acts under sections 47 to 53 of the CO. The Notice specifies the LMA eligible to rely on these permitted acts, and the Regulation prescribes the conditions the specified LMA must comply with in order to rely on these permitted acts. The Notice and Regulation will come into force on 1 January 2026, replacing the Copyright (Libraries) Regulations (Cap. 528B) on the same day.

It is important to note that **the permitted acts under sections 47 to 53 of the CO apply to librarians, curators or archivists of the specified LMA and do NOT apply to LMA users (e.g. a teacher or a student)**. For example, these permitted acts do NOT apply to the common scenario where a library user takes a book from a bookshelf and copies the book using a self-service photocopying machine in the library. The user may rely on other permitted acts under the CO³ in such scenario⁴, as long as the user complies with the relevant conditions.

³ For example, fair dealing with a work for research or private study under section 38 of the CO; fair dealing with a work by a teacher or a pupil for giving or receiving instruction in a specified course of study provided by an educational establishment under section 41A of the CO.

⁴ It would be good practice for the library to post a copyright notice or service guideline near the photocopying machine to remind users of the conditions which must be complied with when relying on the applicable permitted acts and the risk of copyright infringement for non-compliance, and to have library staff monitoring the use of the photocopying machine from time to time.

Specification and prescribed conditions for the relevant permitted acts

Section 47 of the CO: Copying articles in periodicals for users

1. *What is the permitted act under section 47 of the CO?*

This section conditionally permits the librarian of a specified library to copy an article in a periodical and supply the copy to a library user upon the user's request.

2. *Is the library of an educational establishment a specified library?*

The library of an educational establishment is a specified library if:-

- (a) the educational establishment is specified in Schedule 1 to the CO⁵;
- (b) the library is not established or conducted for profit⁶; **and**
- (c) the collection of the library includes copyright works and is generally accessible to the public or a section of the public⁷.

3. *What does the librarian need to do when he/she receives a user's request?*

The librarian must ask the user to complete and sign the prescribed declaration Form 1 in the Schedule to the Regulation and submit the signed declaration to the librarian. The librarian must not copy or supply the copy to the user in the absence of the signed declaration.

4. *Any restriction on the use of the copy supplied?*

Yes. The user must use the copy for research or private study only and declare such purpose in the declaration.

⁵ For example, any school within the meaning of section 3 of the Education Ordinance (Cap. 279) entirely maintained and controlled by the Government, any school which is registered or provisionally registered under the Education Ordinance, etc.

⁶ When determining whether a library is established or conducted for profit:-

- All circumstances of the case are to be taken into account, in particular the nature and operation of the library.
- A library will not be determined as being established or conducted for profit solely because its owner carries on a business for profit, or there is rental income, admission fee, membership fee or other administrative fee or charge.

⁷ Teachers and students of an educational establishment would be considered as "a section of the public".

5. *Any limitation on the amount of copies the user may be supplied with?*

Yes. In each issue of a periodical, only one copy of one article may be supplied.

6. *Any limitation on the amount of payment for the copy?*

Yes. The amount should be calculated based on the production cost of the copy.

Section 48 of the CO: Copying parts of published works for users

1. What is the permitted act under section 48 of the CO?

This section conditionally permits the librarian of a specified library to copy a part of the following published work, and supply the copy to a library user upon the user's request:-

- (a) a published literary, dramatic, musical or artistic work (other than an article in a periodical); or
- (b) a published sound recording or film.

2. Is the library of an educational establishment a specified library?

The library of an educational establishment is a specified library if:-

- (a) the educational establishment is specified in Schedule 1 to the CO⁸;
- (b) the library is not established or conducted for profit⁹; **and**
- (c) the collection of the library includes copyright works and is generally accessible to the public or a section of the public¹⁰.

3. What does the librarian need to do when he/she receives a user's request?

The librarian must ask the user to complete and sign the prescribed declaration Form 1 in the Schedule to the Regulation and submit the signed declaration to the librarian. The librarian must not copy or supply the copy to the user in the absence of the signed declaration.

4. Any restriction on the use of the copy supplied?

Yes. The user must use the copy for research or private study only and declare such purpose in the declaration.

5. Any limitation on the amount of copies the user may be supplied with?

Yes. Only one copy of the same part of a published work may be supplied, and the copy should be no more than a reasonable proportion of the work.

⁸ See footnote 5.

⁹ See footnote 6.

¹⁰ See footnote 7.

6. *What amounts to a reasonable proportion of a work?*

The meaning of a “reasonable proportion” is not defined in the Regulation to allow flexibility for the librarians. When a librarian determines whether a copy of a part of a published work is a reasonable proportion of the work, he/she must consider all circumstances, in particular the type, nature and volume of the work. The Regulation provides a reference value of 10% as a guideline. If a copy consists of not more than 10% of a published work by reference to duration or number of words, pages or bytes or otherwise, the copy is to be regarded as a reasonable proportion of the work, for example:-

- (a) 10 pages of a 100-page book;
- (b) 1 minute of a 10-minute sound recording; or
- (c) 1 MB of a 10-MB electronic book.

7. *If the librarian copies more than 10% of a work, does it mean that the copy is more than a reasonable proportion of the work?*

Not necessarily. 10% is merely a reference value but not a strict rule. All circumstances must be considered (in particular the type, nature and volume of the work) when determining whether a copy constitutes a reasonable proportion of the work. For example,

- (a) if the librarian copies 11 pages of a 100-page book, such copy may still be a reasonable proportion of the book after considering all circumstances (e.g. the extra page just completes a meaningful paragraph or chapter of the book); or
- (b) If the librarian copies 65 seconds of a 10-minute sound recording, such copy may still be a reasonable proportion of the recording after considering all circumstances (e.g. the copy just completes a section of an oral interview).

8. *A poem in an anthology of poems or a short story in a book of short stories is usually only a small part (probably one to two pages) of the anthology or the book. Does it mean that a copy of the poem or the short story will not exceed a reasonable proportion of the work?*

No. A published work in an anthology, compilation or collection is to be regarded as the whole work and not as a part of the anthology, compilation or collection in which it is published. Therefore, a poem in an anthology of poems or a short story in a book of short stories is a whole work in itself. Copying the poem or the short story means copying a whole work and such

copy exceeds a reasonable proportion.

9. *Any limitation on the amount of payment for the copy?*

Yes. The amount should be calculated based on the production cost of the copy.

Section 50 of the CO: Copying for other libraries

1. *What is the permitted act under section 50 of the CO?*

This section conditionally permits the librarian of a specified library (“**source library**”) to copy the following materials and supply the copy to another specified library (“**receiving library**”) upon the receiving library’s request:

- (a) an article in a periodical;
- (b) the whole or a part of a published literary, dramatic, musical or artistic work; or
- (c) a sound recording or film.

2. *Is the library of an educational establishment a source library?*

Yes.

3. *Is the library of an educational establishment a receiving library?*

The library of an educational establishment is a receiving library if:-

- (a) the library is not established or conducted for profit¹¹; **and**
- (b) the collection of the library includes copyright works and is generally accessible to the public or a section of the public¹².

4. *What does the librarian of the source library need to do when he/she receives a receiving library’s request?*

First and foremost, if the receiving library requests for a copy of (i) the whole or a part of a published literary, dramatic, musical or artistic work, or (ii) a sound recording or film, and if the librarian of the source library knows, or could by reasonable inquiry ascertain, the name and address of a person entitled to authorize the making of the copy, then this permitted act is NOT applicable and the librarian of the source library cannot rely on this permitted act to make the copy.

¹¹ See footnote 6.

¹² See footnote 7.

If the situation mentioned above does not apply, then the librarian of the source library must ask the librarian of the receiving library to complete and sign the prescribed declaration Form 2 in the Schedule to the Regulation and submit the signed declaration to the librarian of the source library. The librarian of the source library must not copy or supply the copy to the receiving library in the absence of the signed declaration.

5. *The requested material is available for purchase at the market price in local stores or online shops. Can the receiving library request the librarian of the source library to supply a copy of the material so that it can save money?*

No. When making the request, the librarian of the receiving library must declare that it is not reasonably practicable for the receiving library to purchase a copy of the requested material. Since the requested material is available for purchase on the market, this requirement is not satisfied.

6. *Any limitation on the amount of copies the receiving library may be supplied with?*

Yes. Only one copy of the requested material may be supplied.

7. *Can the source library charge the receiving library for the copy? Any limitation on the amount of the charge?*

Yes. The source library may charge the receiving library for the cost attributable to the production and supply of the copy.

Section 52 of the CO: Copying unpublished works for users

1. What is the permitted act under section 52 of the CO?

This section conditionally permits the librarian of a specified library¹³ to copy the following unpublished works and supply the copy to a library user upon the user's request:-

- (a) the whole or a part of an unpublished literary, dramatic, musical or artistic work from a document (including a document in electronic form);
or
- (b) the whole or a part of an unpublished sound recording or film.

2. Is the library of an educational establishment a specified library?

Yes.

3. What does the librarian need to do when he/she receives a user's request?

First and foremost, if the librarian is or ought to be aware any of the following, then this permitted act is NOT applicable and the librarian cannot rely on this permitted act to make the copy:-

- (a) the work had been published before it was deposited in the library; or
- (b) the copyright owner has prohibited copying of the work.

If the situation mentioned above does not apply, then the librarian must ask the user to complete and sign the prescribed declaration Form 4 in the Schedule to the Regulation and submit the signed declaration to the librarian. The librarian must not copy or supply the copy to the user in the absence of the signed declaration.

4. Any restriction on the use of the copy supplied?

Yes. The user must use the copy for research or private study only and declare such purpose in the declaration.

5. Any limitation on the amount of copies the user may be supplied with?

Yes. Only one copy of an unpublished work may be supplied.

¹³ This section also applies to the curators and archivists of specified museums and archives.

6. *Any limitation on the amount of payment for the copy?*

Yes. The amount should be calculated based on the production cost of the copy.

Remarks on declaration forms

1. *Can the declaration forms be modified or supplemented to be tailor-made for a particular library?*

No. The declaration forms provided in the Regulation must not be modified (unless indicated otherwise therein). Librarians should ensure that the statutory wording and requirements are strictly adhered to.

2. *Are librarians required to verify the authenticity or accuracy of the information provided in a declaration?*

No. Librarians are not required to verify the authenticity or accuracy of the content of the declaration. They may rely on the declaration at face value, unless they are aware that any material particular in the declaration is false.

Further information

For further information on the Notice and the Regulation, please visit the following webpages of the Intellectual Property Department and Hong Kong e-Legislation:-

The Notice and the Regulation

<https://www.ipd.gov.hk/en/copyright/legislative-proposals-and-amendments/copyright-of-libraries-museums-and-archives/index.html>

Copyright Ordinance (Cap. 528)

<https://www.elegislation.gov.hk/hk/cap528>

Intellectual Property Department

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