



**DURBAN UNIVERSITY OF TECHNOLOGY (DUT)
COPYRIGHT POLICY ©**

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DUT COPYRIGHT POLICY ©

The Durban University of Technology's policy on Copyright is determined by the **Copyright Act 98 of 1978** and its subsequent amendments. To this effect, our Copyright policy ensures that the Institution and its entire community remains copyright compliant at all times in terms of the Act.

The fundamental business of education is to create and share knowledge. The existing marketplace for intellectual property often accomplishes this through the strong and productive balancing of creators' and users' rights that copyright law is designed to achieve.

Copyright in South Africa is governed by the Copyright Act No. 98 of 1978, as amended and relevant regulations. South Africa is a signatory to the International Berne Convention which obliges South Africa to give recognition and protection to copyright works from signatory countries. South Africa is also signatory to other international intellectual property agreements.

Copyright applies to all original literary, musical and artistic works; cinematograph films; sound recordings; published editions and computer programs, which must be reduced to a material form; as well as broadcasts and programme carrying signals. One can safely assume that if something is copyrightable in print, it is also copyrightable in electronic forms. Subject exceptions, copyright endures for the lifetime of the "author" and 50 years after his/her death or the first posthumous publication of his/her work. The publisher also has copyright in respect of the published edition.

Ownership of Copyright in terms of the Copyright Act, defines the author or creator of the work as the owner of the copyright, unless the person is in employment, and the work is created in the course and scope of that employment.

It is the Institution's policy to comply with the Copyright Act and Regulations and in so doing, to respect the rights of authors and publishers and to pay reasonable licence fees where required by law. Adherence to copyright is a legal requirement for DUT and failing to comply with copyright could lead to legal consequences for the individual, either staff member or student who is personally responsible for observing the provisions of the Copyright Act.

I. WORK ELIGIBLE FOR COPYRIGHT

The following works are eligible for copyright protection:

- 2.1 literary works;
- 2.2 artistic works, which include photographs, works of architecture, works of artistic craftsmanship;
- 2.3 published editions, ie. The first print, in any format, of a particular typographical arrangement of a literary or musical work.

2. MEANING OF THE WORDS “AUTHOR” and “PUBLISH”

The word “author” is defined in the Act as:

- (i) in relation to a literary, musical or artistic work (besides a photograph), the person who first makes or creates the work;
- (ii) in relation to a photograph, the person who is responsible for the composition of the photograph;
- (iii) in relation to a published edition, the publisher of the edition;
- (iv) in relation to a literary or artistic work which is computer generated, the person by whom the arrangements necessary for the creation of the work were undertaken.

3. RIGHTS OF THE UNIVERSITY TO COPYRIGHTABLE WORKS

- 3.1 The University is the rights holder of copyright in work produced by staff in the course of their employment. The University will hold and retain copyright in work produced either to support or to be used in its core and/or support functions; and in other respects recognizes and assigns the copyright to the authors of work in copyrightable works.

Examples of the first category are: banks of multiple choice test and examination questions; syllabuses and curricula; multi-media materials produced to support a course or group of courses; computer software produced to support any academic or research or administrative process; and photographs taken by staff for University media or publicity.

Examples of the second category are: scholarly and literary publications; paintings, sculpture, and photographs produced as an art form; and recording of musical performances and musical compositions.

- 3.2 The University assigns copyright in teaching materials produced by staff to the author(s) –
- (a) except where the teaching materials are commissioned by the University (as opposed to produced by the staff member to support his or her own, or by a group to support their own, teaching) in which case copyright rests in and is held by the University); and
 - (b) on condition that the University holds and retains a perpetual, royalty-free, non-exclusive licence to use, copy and adapt such materials within the University for the purposes of teaching and or research.
- 3.3 The University recognizes that there may be cases where joint ownership of copyright between the University and an author will be appropriate, in which case prior agreement between the University and the author(s) must be entered into to govern the rights and obligations of the parties to the work. Examples of such cases would be in an instant where an author is not a staff member and the other(s) is (are).
- 3.4 Copyright in a dissertation or thesis vests with the student who has written the dissertation or thesis, subject to the rights of the University provided in rules for degrees, diplomas and certificates.

4. INTELLECTUAL PROPERTY

(1) The University claims ownership of all intellectual property specified in section 6 of the IP statute which is devised, made, or created:

- (a) by persons employed by the University in the course of their employment;
- (b) by student members in the course of or incidentally to their studies;
- (c) by other persons engaged in study or research at the University, who as a condition of their being granted access to the University's premises or facilities, have agreed in writing that this shall apply to them; and
- (d) by persons engaged by the University under contracts for services during the course of or incidentally to that engagement.

4.2 The University's rights under sub-section (1) above in relation to any particular piece of intellectual property may be waived or modified by agreement in writing with the person concerned.

4.3 The intellectual property of which ownership is claimed under section 3.4 (1) comprises:

- (i) works generated by computer hardware or software owned or operated by the University;

(ii) works created with the aid of university facilities including (by way of example only) films, videos, photographs, multimedia works, typographic arrangements, and field and laboratory notebooks;

(iii) patentable and non-patentable inventions;

(iv) registered and unregistered designs, plant varieties, and topographies;

(v) university-commissioned works not within (i), (ii), or (iii);

(vi) databases, computer software, firmware, courseware, and related material not within (i), (ii), (iii), (iv), or (v), but only if they may reasonably be considered to possess commercial potential; and

(vii) know-how and information associated with the above.

4.4 The University will not assert any claim to the ownership of copyright in:

(i) artistic works not listed in section (1) eg. books, articles, plays, lyrics, scores, or lectures, apart from those specifically commissioned by the University;

(ii) audio or visual aids to the giving of lectures;

(iii) student theses, exercises and answers to tests and examinations save to the extent that they contain intellectual property claimed by the University;

(iv) computer-related works other than those specified in a contract.

4.5 In the case of 'commissioned work' that which the University has specifically employed or requested the person concerned to produce, whether in return for special payment or not, may be separately agreed between the University and the person concerned. Work commissioned by the University in the course of its publishing business shall not be regarded as 'work commissioned by the University'.

4.6 Council may make regulations:

(i) requiring student members and such other persons as may be specified in regulations to sign any documents necessary in order to give effect to the claim made by the University to waive any rights in respect of the subject-matter of the claim which may be conferred on them by Chapter IV of Part I of the Copyright, Designs and Patents Act 1988; and

(ii) generally for the purposes.

4.7 This Part shall apply to all intellectual property devised, made, or created on or after 1 October 2000 and is subject to the provisions of the Patents Act 1977.

5. AUTHORITY TO BIND THE UNIVERSITY

5.1 The Vice-Chancellor and the Registrar shall each have, and may delegate in writing, authority to sign contracts for the University.

5.2 Council may by regulation give to classes of persons or individuals the authority to sign contracts for the University to the extent and in respect of the subject-matter specified in regulations.

5.3 The authority given may itself be delegated in writing, but no such delegation shall be operative until a copy of the instrument recording the delegation has been delivered to the Registrar.

5.4 The Seal of the University shall not be affixed to any document except by the Vice-Chancellor, the Registrar, or an officer or employee of the University deputed by the Registrar for this purpose (either generally or in relation to particular transactions).

5.5 No officer of the University, or any other person employed by the University or working in or in connection with any department or body within or under the control of the University, shall have authority to make any representations on behalf of the University or to enter into any contract on behalf of the University, except with the express consent of Council.

5.6 No such consent given by Council shall be operative until a copy of the resolution of Council, is certified by the Registrar.

6. MULTIPLE COPYING

Not more than one short poem, article story or essay or two excerpts copied from the same author or more than three short poems, articles, stories or essays from the same collective or periodical volume for the purpose of instructing a particular class during any one term provided that:

- Not more than nine instances of such multiple copying take place for one course of instruction to a particular class during any one term;
- Only one copy per pupil per course may be made;
- Copies may only be made by or for a teacher, at his or her request, for research, teaching or preparation for teaching in a class;
- Copies may not be used to create or replace or substitute anthologies, compilations or collective works;
- No copies may be made from 'ephemeral' works such as workbooks, exercises, standardised tests and test booklets and answer sheets copying may not be used as a substitute for the purchase of books and periodicals;
- Copying may not be repeated in respect of the same material by the same teacher from term to term.

6.1 APPLICATION

Application for clearance must be made at least 10 days in advance of need.

The DUT's Copyright Application form must be completed and submitted to the Copyright Office for the following instances:

- For each item to be distributed to the students as part of a course pack, or single item handout.
- For each item to be placed in the library's short loan section in ***copied from*** (not original published editions) for possible (or recommended) on-coping by students.

In addition to the information relative to the reproduction (***number of pages, and number of copies of those pages***), the application should contain full bibliographic details, eg.

- Title of the Publication, i.e. Book, Journal, Magazine, etc.
- Title of the Article, if reproduction is from a journal or magazine;
- ISBN of Book, or ISSN of Journal/Magazine;
- Author(s)/Editor(s) of the Book or Author(s) of the Article.

The DUT community are accountable for conforming to the copyright law, and for in good faith determination of whether an intended use falls within the fair use exemption. The DUT will not adopt legal responsibility for staff members who fail to make a good faith determination or otherwise do not conform to the copyright law.

Academic staff are responsible for reviewing and vetting the course content for copyright compliance; if requesting a 3rd party to process the content, the faculty should be able to provide evidence of either copyright compliance or a good faith determination.

The DUT administration fully supports the Copyright Act 98 of 1978 as stated in this document. No individual should request a 3rd party to violate copyright law and if an individual is requested to violate the law, he or she can refuse without fear of retaliation. If you feel you are in an untenable position, please contact the DUT's Copyright Office. Students are also accountable for observing with copyright law, and, in correctly and ethically applying fair use values in completion of their activities and projects. The DUT will not assume legal responsibility for violation of copyright law by students. Should a member of staff or student believe that there is a dispute related to the use or proposed use of copyrighted material, they will, with immediate effect notify the University Copyright Office.

For support contact:

The Copyright Office
M L Sultan Campus
Library Directorate
Ground Floor – Gym Block
Dr R. Bansi
rbansi@dut.ac.za
Tel. 031 - 373-5455