

O. LICENSING AND REGISTRATION

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O. LICENSING AND REGISTRATION

O.1 EDUCATIONAL COPYRIGHT LICENSING (PRINTED MATERIAL)

General

- O.1.1 Under the Copyright, Designs and Patents Act 1988, material which has the benefit of copyright protection may not be copied without the consent of the copyright owner. The copyright owner may bring an action for damages in respect of unauthorised copying and/or apply for an injunction to prevent further copying. In some circumstances, such copying may also amount to a criminal offence.
- O.1.2 The Copyright Licence Agency (CLA) is authorised by a substantial number of copyright owners to grant licences on their behalf for the limited copying of that material. The Copyright Licence Agreement permits, on behalf of these copyright owners, limited copying of certain material by staff and pupils at schools and other institutions maintained by education authorities.
- O.1.3 Under the terms of the Licence there are restrictions on the extent of copying and the use which may be made of copies. The formula for assessing the cost of the licence includes a limit on the volume of copyright material copied per pupil.

Departmental responsibilities under the Copyright Licensing Agreement

- O.1.4 Education authorities have the legal liability for complying with the Licence Agreement and are responsible for drawing up monitoring schemes which ensure that schools comply with the terms of the Licence. However, the Agreement makes clear that it is each school which is in the practical position to ensure that it complies with the Licence.
- O.1.5 The Department's Principal Officer (Educational Resources) is the Licensing Co-ordinator for the authority. The Co-ordinator liaises with the CLA on behalf of schools and monitors compliance with the Licence Agreement. This includes:
- (i) ensuring that information and guidance are distributed to schools timeously;
 - (ii) advising schools in areas of difficulty and uncertainty; and
 - (iii) assisting school Copyright Officers to ensure that all necessary documentation is completed, and that staff and pupils comply with the terms of the Licence.

Responsibilities at School Level

- O.1.6 School staff must comply with the terms of the Licence Agreement. Each school must identify a school Copyright Officer who will liaise with the Licensing Co-ordinator to oversee the operation of the Licence Agreement in their school.
- O.1.7 The CLA, via the Department's Licensing Co-ordinator, has issued the following documentation and guidance on copyright licensing to schools:
- (a) Guidance for using Log Books and Part B Licence (photocopiable);
 - (b) Copy of Part B Request Form (photocopiable);
 - (c) copies of Log books per copier;
 - (d) copy of Log Book Master Record Sheet (photocopiable);

- (e) copy of Explanatory Leaflet (photocopiable);
- (f) copy of CLA Requisition Form (for adaptation);
- (g) copy of User Guidelines per copier;
- (h) copy of Excluded Work lists per copier; and
- (i) copy of the Machine Stickers per copier.

O.1.8 Where additional items (other than those which are photocopiable) are required eg for new machines, school Copyright Officers should notify the Licensing Co-ordinator.

O.1.9 The school Copyright Officer is required to take all reasonable steps to ensure that all users of reprographic equipment comply with the Terms of the Licence Agreement. In particular, the Copyright Officer, in consultation with the Head Teacher as appropriate, is required to:

- (a) submit details of all photocopiers to the Licensing Co-ordinator and notify any changes timeously to the Co-ordinator;
- (b) ensure that copies of the CLA's User Guidelines, the list of Excluded Works and machine stickers etc are displayed at the school at all copiers and any other position which, after discussion with the Licensing Co-ordinator, is thought appropriate;
- (c) ensure that the explanatory leaflet circulated by the CLA is copied and distributed to all school staff with a request that it be read fully;
- (d) ensure that all machines not designated as purely for "administrative" use are equipped with photocopying log books and that these are used by all staff as required by the Licence Agreement;
- (e) monitor, on a regular basis, the cumulative usage of the school's copyright allocation (and, where appropriate, any further decisions taken about distribution of that overall allocation between departments within the school) and to ensure that any necessary "Part B" allocations are sought in advance of allocation being exhausted; and
- (e) inform the Licensing Co-ordinator regularly of the operation of the Licence at the school.

O.1.10 Checking etc need not be undertaken personally by the Copyright Officer where a formal delegation of duties has been agreed within the school, but Copyright Officers should nevertheless satisfy themselves regularly that any agreed system is working satisfactorily.

Material covered by the Licence Agreement

O.1.11 The Licence permits limited copying from books, periodicals and journals (in hard copy form) excluding:

- (a) theses and other unpublished material;
- (b) various types of works listed in the CLA's User Guidelines, issued to all schools;
- (c) other work which is specifically excluded by the copyright owners/ licensees of that work (a list of which has also been issued to schools) in terms of the Licence Agreement. This list may be amended from time to time by the CLA, and schools will be advised of any changes.

Material not covered by the Licence Agreement

- 0.1.12 Where material is excluded from the Copyright Licence Agreement, it does not mean that it may be freely copied - only that the copyright owners have decided to make their own arrangements directly with anybody wishing to use the material. Where schools wish to copy material not covered by the Agreement, they must contact the copyright owner directly to seek a licence, and to discuss any restrictions on usage, or fees, which the copyright owner may require if permission is given. (Schools should note that a copyright owner does not have to give permission to copy material whose copyright they own, and there may be instances where permission is refused, regardless of financial or other considerations.)
- 0.1.13 Any copies made under an agreement reached with an individual copyright owner are not covered by the CLA Licence Agreement, can be recorded as "other" on photocopying log-books, and will not count against the school's volume allocation under the CLA Licence Agreement. However, individual copyright owners may well charge fees or place restrictions on copying which exceed those in the CLA Licence.
- 0.1.14 Where a school wishes to contact a copyright owner not covered by the Licence Agreement, the Copyright Officer may wish to discuss the matter in advance with the Department's Licensing Co-ordinator. The Licensing Co-ordinator should also be advised of the outcome so that the information can be used to assist other schools.

Other copiable material

- 0.1.15 Much of the material used by schools may be copied without using the school's copyright allocation, including:
- (a) material produced by school/other Western Isles staff **in the course of their employment** and where the copyright belongs to the authority. (Schools should note that the copyright of material produced by a member of staff outwith working hours and as a private individual, belongs to that person as an individual. Copying issues should be discussed with them as with any other copyright owner); and
 - (b) material which the school/authority may have bought or have been given by central, academic or other bodies and which states specifically that copies of the material may be made freely and without limit as to volume.
- 0.1.16 Copies made of material as above do not count against a school's copying allocation and may be noted as "other" on photocopying log books,
- 0.1.17 Any member of school staff who is in doubt about the copyright status of material should discuss the matter with the school Copyright Officer, who may at their discretion seek the advice of the Licensing Co-ordinator.

Restrictions on copying

- 0.1.18 The Licence Agreement contains the following restrictions on the extent of copying (other than the volume restrictions discussed later) and on the use to which copies may be put:
- (a) copying is permitted in paper form only and excludes all electronic copying (eg storing in a computer) other than for the sole purpose of making an identical paper copy;
 - (b) in general, copying of material covered by the Licence may not exceed 5% of the total length of that material, or one chapter, except that:
 - one whole article may be reproduced from any issue of a serial publication (eg a periodical); and

- a whole short story or poem may be copied from a volume of short stories or poems provided the short story or poem is no longer than ten (10) pages in length.
- (c) the number of multiple copies that may be made of the same extract from any material is restricted to the number required for each pupil and their teacher (in the case of a lesson) or each parent, teacher or School Board member (in the case of a meeting between some or all of them) to have one copy each;
- (d) repeated copying of the same material for the purposes of a particular study course is not permitted during any academic year beyond the limits described in the above two paragraphs;
- (e) copies may only be made for use at schools. They may not be sold or distributed externally; and
- (f) copies may only be made from material as it was originally published (or from identical copies of the original publication).

Definition of copy

O.1.19 For the purposes of the licence, a “copy” is a copy of one page or part of a page of work.

Copyright fees and volume allocations

O.1.20 The CLA Licence is divided into the Part A Licence and the Part B Licence.

Part A Licence

O.1.21 The basic CLA licence (the Part A Licence) is funded centrally by the Department, and is not deducted from schools' per capita allocation. Payment of the Part A Licence fee allows the Authority to copy an average of 20 copy pages per pupil across the Authority. This is how the allowances are currently allocated.

O.1.22 The annual figure used for the allocation from CLA is the school census figure for each school in the September preceding the licence year.

Part B Licence

O.1.23 Additional copy pages, over and above the basic 20 copies per pupil allocation, can be purchased in Part B bands, currently set as follows:

- (a) Bands 1 and 2: an additional 5 copy pages per pupil for each band at a cost of 20 pence per pupil per band (ie 4p per page, per pupil);
- (c) Band 3 and subsequent bands: an additional 10 copy pages per pupil for each band at a cost of 40 pence per pupil per band (4p per page, per pupil.)

O.1.24 Additional "blanket" "Band B" allocations may be bought by the Authority as a whole and distributed at their discretion as above at O.1.23. Band B allocations may also be bought by individual schools on a whole-band basis. Band B Licence bands must be bought and renewed annually.

O.1.25 In recognition of the particular demands of the secondary curriculum, the Authority has purchased additional Band B allocations to permit, currently, an **additional** 10 pages per secondary pupil, giving a total Secondary pupil allocation of 30 pages per pupil. This additional allocation will also be funded centrally and will not count against secondary schools' per capita allocation. **Any funding for additional copying other than that funded by the Department as above must be met by schools from within their Per Capita allocation.**

Distribution of copying allocation within schools

- O.1.26 In the same way as the Authority is permitted to vary the distribution of the overall Licence allocation between schools, Head Teachers, in consultation with their staff, are permitted to judge the appropriate distribution of their school's overall allocation between departments or activities within their schools.
- O.1.27 Redistribution of the school's copy allocation is entirely a matter for Head Teachers in consultation with their staff. The school Copyright Officer and the Department's Licensing Co-ordinator will wish to ensure only that arrangements to manage and monitor allocations are working effectively and that the school's overall allocation is not exceeded.
- O.1.28 In determining any distribution of copying allocations within their schools, Head Teachers will wish to note that the Licence is not restricted to staff copying but includes copying by pupils within the school eg for project work books. Schools may wish to reserve a proportion of their allocation to cover any unforeseen requirements for pupils whose course of study requires production of project work for assessment purposes.
- O.1.29 In addition, the school's copy allocation is not restricted solely to copies made on the premises. Where, for operational reasons, a school arranges for copying to be carried out on other premises (eg at the Council's central print works for high volume bound work, or at a neighbouring school in the event of machine failure) the copying undertaken at those premises will still count against the school's allocation. School copyright officers should keep a separate log of such copying and incorporate these figures when monitoring the school's allocation usage.

Applications for additional copying allocations

- O.1.30 Copying should be monitored appropriately, and where an allocation threshold is approaching, any necessary application for an additional Part B Licence band must be made **in advance**. In practice this will mean that schools must either cease or prioritise copyright photocopying, or fund an additional Band B purchase from within their per capita budget. In cases of exceptional difficulty, school Copyright Officers or Head Teachers should discuss their situation with the Licensing Co-ordinator.
- O.1.31 School Copyright Officers should apply for additional Part B Licences by contacting the Department's Licensing Co-ordinator who will take the necessary action to obtain the additional licence from the CLA. Applications should not be sent directly to the CLA.
- O.1.32 Where a school has agreed a fee with a copyright owner for the use of material not covered by the Copyright Licence Agreement (see O.1.13 above), the fee must be met by the school from within its per capita allocation as for additional Band Bs.

Re-use of copied material

- O.1.33 Copies made under the Licence may be re-used by successive classes. School staff will wish to judge whether material should be returned by pupils when a course of study is concluded, bearing in mind the implications of classifying and storing such material.
- O.1.34 Material which has been copied once may be used as a master for further copying but such recopying will still count against the School's allocation under the Licence Agreement. A copy may be "first generation" or "second generation" but it remains a copy of the material owned by the copyright holder.
- O.1.35 Before copying, copyright material should be dated and noted with the source so that the Copyright Officer, and any CLA personnel visiting the school, can satisfy themselves as to compliance with the terms of the Licence.

Liaison with CLA

- O.1.36 The CLA have stated that the object of the Licence is to work together to enable it to run smoothly and the CLA will take into account the specific circumstances and will assist both the education authority and the schools to achieve compliance. The Authority's Licensing Co-ordinator will liaise with the CLA, on behalf of schools, to resolve any areas of difficulty or uncertainty and with the aim of ensuring that problems are resolved to the satisfaction of all parties.
- O.1.37 As at O.1.13, schools may contact copyright owners directly to discuss copying of material not covered by the CLA Licence Agreement. However, issues relating to the CLA Licence Agreement and returns required under the Licensing Agreement should always be referred to the Department's Licensing Co-ordinator. Schools should not make direct contact with the CLA unless the matter is one of extreme urgency and the Licensing Co-ordinator is unavailable. In such cases, the Licensing Co-ordinator should be informed as soon as possible of the circumstances of the case and the outcome of any discussions with the CLA.

Access to schools by CLA representatives

- O.1.38 The Licence Agreement specifies that the CLA has a right of access to each school during school hours, on appropriate notice through the Education Authority, to ensure that the Monitoring Scheme adopted by the Authority, and any sample scheme (see O.1.41) which the school has been asked to take part in are being properly operated.

Reports to Licensing Co-ordinator by school Copyright Officers

- O.1.39 The Department may ask School Copyright Officers to report to the Licensing Co-ordinator as required to ensure compliance with the terms of the Licence and to ensure that school volumes are within limits. In light of the current low volume of photocopying within the terms of the licence this will be undertaken in such a way as to ensure that the administrative burden on schools is kept to a minimum.

Claims for alleged breach of copyright

- O.1.40 Any claims for alleged breach of copyright, whether or not in respect of material covered by the CLA Licence Agreement, should be referred immediately to the Department's Licensing Co-ordinator.

Sample Schools

- O.1.41 Some schools may be required by the CLA to take part in a sample scheme to enable the CLA to monitor the operation of the Licence and to contribute to the data which allows the CLA to calculate the fees payable to Copyright Owners. Any school selected by the CLA to participate in the sample scheme will be notified in advance, and the Licensing Co-ordinator will discuss details of the requirements with the School's Copyright Officer.

O.2 USE OF OTHER VISUAL AND AUDIO MATERIAL

General

- O.2.1 The Education Department has additional licences for schools including Educational Recording, Phonographic Performance, Performing Rights and TV licences. These licences are arranged annually on a departmental basis to cover all relevant schools and are paid for by the Department from a central budget.

Educational Recording

- O.2.2 The Education Department funds an annual ERA (Educational Recording Agency) licence for school recording of educational programmes. The Licensing Scheme is set out at

Appendix O1 and schools should ensure that all licence conditions are complied with including the clear marking of all relevant recordings (Clause 6 of the Scheme.) The ERA reserve the right to require or inspect any records which they may ask schools to keep and to have access to schools to inspect these records.

- O.2.3 Any queries on the licence terms should be directed to the Education Department, Council Offices, Sandwick Road, Stornoway (Iain Gordon Smith on 01851 709455.) Further information is also available from the ERA's website at www.era.org.uk.

Phonographic Performance

- O.2.4 The Education Department funds an annual licence with PPL (Phonographic Performance Ltd) which covers the public use of sound recordings at educational establishments for non-curricular activities for both daytime use and during the evening by other organisations. In respect of non-educational functions, the licence authorises the public use of sound recordings for activities including discos, dances, DJ presentations, aerobics, dancing and various forms of background music.
- O.2.5 The PPL licence does **not** cover the use of juke boxes, background music and hired recordings at any Council owned premises. Equipment and recordings supplied by operators cannot be covered by the blanket licence and PPL licences operators directly in these cases.
- O.2.6 The licence does not permit the public performance of illegal material such as the products of home taping and pirate cassettes.
- O.2.7 Further information about PPL can be found at their website www.ppluk.com.

Television Licences

- O.2.8 School Television Licences are paid for centrally by the Education Department. Any schools receiving queries about a licence from TV Licensing should refer them to their own Manual Licensing Centre in Bristol.

Performing Rights

- O.2.9 The Education Department funds an annual licence with PRS (The Performing Rights Society) to authorise the public performance of copyright music or other materials controlled by the PRS. Schools should note however that certain works (such as Dramatico-musical works) are not covered by this licence and any school wishing to present these works will have to seek permission directly from the copyright owner. The copyright owner may or may not give permission for the material to be used and is entitled to charge for this permission or to impose conditions on the use of the material or its performance.
- O.2.10 Any questions on PRS licensing should be directed to the Education Department in Sandwick Road (Iain Gordon Smith on 01851 709455.) Further information is also available from the PRS website at www.ceduman.co.uk.

Entertainment licences

- O.2.11 Under national and local legislation, places of public entertainment require Entertainment Licences. A place of public entertainment is defined as "any place where, on payment of money or money's worth, the public are admitted or may use any facilities for the purposes of entertainment or recreation" but there are certain exemption including schools and athletic or sports grounds "while being used as such." This means that schools which are being used for activities (eg during school lets) where an entrance fee is charged, are likely to be regarded as places of entertainment and require a licence.
- O.2.12 Entertainment Licences are issued by the Comhairle's Licensing Section who can provide full details of the exemptions and advise whether a licence is required in any particular

case. Schools will wish to note, however, that the licensing requirement will not cover any activities (whether ticketed or not) where the income or profit is going to a school fund or a school related purpose. Neither will it cover any religious activities. Schools who only have these types of events will not require an Entertainment Licence.

- 0.2.13 Fund raising or ticketed performances by outside bodies (eg a local mod) will require an Entertainment Licence. In these circumstances, schools could ask the letting group to obtain their own (ie in schools where there is only a very occasional school let) but schools who regularly host such events (as school lets) are advised to complete the general application and to include details of typical letting activities.
- 0.2.14 Entertainment Licence application forms are available from the Comhairle's Licensing Section and licences will require renewal on an annual basis. (Schools should keep a note of the date on which their licence expires and submit the renewal application at an early stage.) Entertainment licences are funded centrally by the Education Department as they relate in the main to non devolved school letting activities.

0.3 EMPLOYMENT OF CHILDREN

General

- 0.3.1 In law, children who are over 13 but under Minimum School Leaving age may take part in part time work under certain conditions and as long as this work does not adversely impact upon their education. National and EC statutes provide a basic outline of the law and the Comhairle has introduced local byelaws for the employment of children. Guidance on the employment of children and application forms are available on the Comhairle's Internet site, the Education Department website and from the Education Department.
- 0.3.2 Schools will note from the guidance that with the exception of "performances" (see below at O.3.7) children who are under 13 may not work. Children aged 13 may only work in specified occupations and certain rules (eg hours and types of work) apply to all children.
- 0.3.3 The Education authority is responsible for approving part time employment and issuing Employment Permits to relevant employers. An employer who employs a child without the necessary employment permit is committing an offence.
- 0.3.4 The "children" to whom this section refers are school pupils under Minimum School Leaving Age.

Procedures for obtaining licence

- 0.3.5 Employers are responsible for obtaining an employment permit for any child under Minimum School Leaving Age. On receipt of an application for an employment permit, the Education Department will scrutinise the application to ensure that it conforms with the legislation before seeking the views of the Head Teacher on whether the proposed employment would or would not affect the child's education. The Department is responsible for advising the employer and others of the success or failure of an application.
- 0.3.6 To ensure that pupils and their parents are aware of the restrictions placed upon part time employment of children, schools should include information about this issue in the School Information Handbook which is issued annually to parents. A sample text is available for this from the Education Resources Service. The Education Department will also issue, annually, leaflets for all secondary school pupils.

Performance Licensing

- 0.3.7 Children of any age may at times be asked to participate in "performances" including television, stage, film or modelling work. However, children under statutory school leaving age are not permitted to take part in a performance unless licensed to do so by the local

authority. The Education Department is responsible for Performance Licensing on behalf of the Comhairle.

- O.3.8 "Performance" in this context is not strictly defined and a degree of discretion is left to the Education Department. Broadly speaking, a performance is regarded as any activity in which a child is "directed". Performances organised by schools, for example plays or concerts are, however, exempt from these arrangements.
- O.3.9 Applying for performance licences is the responsibility of the prospective producer/ broadcaster and of the parent(s) of the participating children. All licences are subject to education department approval of, for example:
- (a) arrangements for education;
 - (b) chaperoning of children;
 - (c) lodgings (if appropriate), facilities and welfare; and
 - (d) health and safety issues including whether or not the child is fit to take part.
- O.3.10 All of the above matters, and any conditions required of the broadcaster or producer will be discussed directly with them by the Department. In term time, schools will be asked to give a view on whether or not a child's absence from schools may be permitted, including the effect of any such absence on the child's education. The school may also be asked, in the event of a longer absence, for views on the education of that child during the performance although provision of that education is the responsibility of the producer or broadcaster. **It should be noted that schools are not responsible for obtaining Performance Licences nor for making or facilitating any arrangements for the performance other than those which they wish or have offered to make.**
- O.3.11 Occasionally, smaller television production companies or certain producers may not be entirely aware of their obligations under performance licensing legislation. If a school becomes aware that a child's participation in a performance may be being contemplated and has reason to believe that a licence application has not been made they should, where possible, advise the Education Department by Email (s.mackinnon@cne-siar.gov.uk) giving details of the name, address and date of birth of the child and details of the production company where known.
- O.3.12 Information on Performance Licensing should be included in the annual guidance on employment of children in School Information Hand books as at O.3.6 above.
- O.3.13 Any queries on Performance Licensing, including from outside film companies, should be referred to the Education Department, Council Offices, Sandwick Road, Stornoway (Sharon Mackinnon on 01851 709436.)

Non Licensed performances

- O.3.14 There may be occasions when eg a television company seeks a school's permission to film children in a "non-directed" way for example to provide background establishing shots of activity in a school playground to accompany a local news report. While this may not always constitute a performance there are further matters to be borne in mind:
- (a) it is Education Department policy that filming should not be permitted in school where that filming would disturb the education of any children; and
 - (b) under Data Protection guidance and Comhairle policy, filming of children should not take place on school property unless the parents have consented to the activity.
- O.3.15 Schools should discuss individual cases with the Education Department at an early stage.

