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## Churches & Copyright

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This information sheet sets out some of the things you need to know to work out whether or not you need permission to use music in your church. It also outlines some of the most important ways in which churches can get permission.

Information relevant to the educational activities of schools, colleges and universities controlled by religious organisations is provided in our information sheet *Education: Copyright Basics (G048)* and our practical guides for educational institutions which are available for purchase in our bookstore: [www.copyright.org.au/bookstore](http://www.copyright.org.au/bookstore)

We update our information sheets from time to time. Check our website at [www.copyright.org.au](http://www.copyright.org.au) to make sure this is the most recent version, and for other information, such as our training program.

**The purpose of this information sheet is to give general introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.**

### Key points

- Permission is likely to be needed to perform or play copyright music and lyrics outside worship services.
- In most cases, you will need permission from the copyright owner and the performer if you want to record music.
- Unless copyright has expired, you may need permission to photocopy music or reproduce tunes and words in overheads or service sheets.

### No general copyright exception for churches

There are no general provisions in the Copyright Act allowing churches to use copyright material without the copyright owner's permission. Under copyright law, churches and other religious organisations are in the same position as non-profit organisations, companies, local councils and individuals. Unless they can rely on a special exception, all of these users need permission to use the material in the ways reserved to the copyright owner.

### When is permission needed from a copyright owner?

Permission is needed from a copyright owner to:

- use material that is protected by copyright;
- in one of the ways exclusively reserved to the copyright owner;
- where copyright has not expired; and
- there is no special exception that applies to the use.

## Identifying what is protected by copyright

Copyright protects:

- literary works;
- dramatic works;
- musical works;
- artistic works;
- films (the moving images and soundtracks);
- sound recordings;
- broadcasts (the skill, effort and cost in assembling, preparing and transmitting programmes); and
- published editions (the layout, typesetting and format of published works).

A single item may include several kinds of copyright material. Each of these may be owned by different copyright owners. For example, a music CD will include some or all of the following, each of which may be separately protected:

- musical works (such as the music to songs) on the recording;
- any arrangements of these musical works;
- any lyrics going with the music (literary works);
- any translations of those lyrics (separate literary works);
- the sound recording itself;
- any photographs or drawings on the cover (artistic works); and
- any printed text, including on the cover or in booklets or liner notes that accompany the CD (literary works).

### Arrangements and translations

A work which is “derivative” or based on an earlier work may itself be protected by copyright, provided it is the result of some skill or labour on the part of its creator. Thus arrangements or transcriptions of music, or translations of song lyrics, will often be separately protected by copyright.

### Published editions

If you are using sheet music, it is important to be aware that copyright protects the “published edition” of printed material. This refers to the typesetting and typography of the printed edition, and protects the publisher’s investment in preparing the work for publication. So even if copyright in the words and music has expired (for example, in Handel’s *Messiah*), copyright in the published edition may not have.

### Exclusive rights of copyright owners

The exclusive rights of an owner of copyright in a musical or literary work (such as the music or words to a song) include the right to:

- **reproduce** the work, including copying by hand, photocopying, scanning, copying a digital file, printing out and recording or filming the work or a performance of it;

- **communicate** the work in a non-domestic context (for example, emailing, faxing or broadcasting the work or putting it on an intranet or internet site);
- **perform** the work live, or play a recording of it, in a non-domestic context; and
- **adapt** the work (for example, making an arrangement of a musical work, or translating song lyrics).

The exclusive rights of an owner of copyright in a sound recording include the right to:

- **reproduce** the sound recording;
- **communicate** it in a non-domestic context; and
- **play** it in a non-domestic context (generally, other than with family or friends).

### **Has copyright expired?**

Once copyright has expired, the material may be used freely, without permission.

For published musical and literary works (such as song music and lyrics), copyright in the music generally lasts until 70 years after the year of the composer's death, and copyright in the lyrics generally lasts until 70 years after the year of the lyricist's death. For films and sound recordings, copyright lasts for 70 years from the year of first publication. Copyright in a published edition only lasts for 25 years from the end of the year of first publication.

Copyright has generally expired in music and lyrics that were created by people who died before 1955 and published before 1955.

For example, copyright in music by Basil Harwood (who died in 1949) or that were published or publicly performed before 1955 (for example, the tune "Thornbury" – often used for the words "Thy hand, O God, has guided") has expired, and may be freely used. In contrast, copyright in Ralph Vaughan Williams' works (such as "For all the Saints") will still be protected as he died in 1958 – generally, copyright in his works will last until 2028.

For detailed information, see our information sheet *Duration of copyright*.

### **Does a special exception apply to your use?**

There are some situations in which people don't need permission to use copyright material: for example, a fair dealing for the purpose of research or study or criticism or review. See our information sheets *Research or Study (G053)* and *Fair Dealing (G079)* for information on some of these exceptions.

Under the special exceptions most likely to be relevant to churches:

- a teacher may make a copy by hand in the course of educational instruction (for example, a Sunday School teacher may copy a work by hand onto an overhead transparency or onto a whiteboard, but not a digital whiteboard that can copy, provided this is done "in the course of educational instruction" rather than as part of worship);
- a teacher or student may perform music, or play recorded music, in the course of giving or receiving educational instruction in class, provided the instruction is not given for profit, and the audience is limited to people taking part in the instruction (this provision is likely to allow copyright material to be performed or played in a Sunday School class, but would not apply to performances at which parents or other family members or members of the congregation are present); and
- we understand that churches are covered by an exception in the Copyright Act that permits registered charities to play sound recordings in public without the permission of the owner of

copyright in the **sound recording** (provided the playing is part of that organisation's activities or for its benefit). Note, however, that this exception does **not** cover the music or other material that is heard on the sound recording so you would still need to consider whether permission or a licence is required to perform this material.

### **Moral rights**

Creators (such as the writers of the music and lyrics of a song) have "moral rights" in their work. These are separate from copyright, and cannot be bought and sold: unlike copyright, moral rights can only be held by the individual creator of a work or film. The most important of these rights is likely to be the "right of attribution". Therefore, it is good practice for churches to accurately attribute the creator(s) of the words and music when a song is reproduced (on overheads, in hymn books or service sheets, and in recordings).

For further information, see our information sheet *Moral Rights*.

### **Performing live music & playing recorded music**

Generally, permission is needed to play copyright music and lyrics "in public", whether as a live performance or by playing a recording. For the purposes of copyright, most performances or playing of music outside the home are "in public", and this includes performances or playing of music in churches during services and other church activities.

#### **Playing live music**

If the performance is live, permission will generally be needed from the owner(s) of copyright in the music and lyrics. Most public performances of music are licensed by the Australasian Performing Right Association (APRA), a non-profit society that collects and distributes copyright fees on behalf of composers and music publishers.

However, APRA has a policy of permitting performances of musical works in its repertoire during church services (for example, worship services, weddings and funerals) without the payment of a fee.

You will, however, need a licence from APRA if music is performed on your church premises in any other context, such as at concerts, youth group events, meetings, social groups and fêtes.

Note also that APRA does not license the public performance of major musical works such as operas, oratorios, and choral works longer than twenty minutes.

For further information, contact APRAIAMCOS:

<http://www.apra-amcos.com.au/MusicConsumers/MusicinBusiness/Churches.aspx>

#### **Playing recorded music: sound recordings and the music on a sound recording**

In general terms, people who want to play recorded music in public need a licence from the Phonographic Performance Company of Australia (PPCA) **in addition** to a licence from APRA. PPCA licenses the public performance of sound recordings.

However, your church does not need a licence from PPCA for situations where a recording is played for the benefit of the church (for example, at events to raise money for the church or for a church-related charity, or during church services such as Sunday services, weddings and funerals, and youth group activities). For church activities other than worship services, a licence from APRA may still be required, but a PPCA licence is not needed.

If recorded music is played on church premises by other organisations (for example if a church hall is hired out for a function where recorded music is played), generally a licence from both APRA and PCCA will be required.

## **Recording music**

### **Making audio recordings of services**

Recording live music requires permission from the owner of copyright, unless the copyright has expired or a special exception applies.

In general terms, if your church wants to make audio recordings of its services, you will need to get permission either from the Australasian Mechanical Copyright Owners Society (AMCOS) or a Christian music collecting society to record music controlled by their members. (Which organisation you contact for permission will depend on what music you are using: not all Christian music publishers are members of AMCOS.)

If you will be recording any protected sound recordings that are played during the services, you will generally also need permission from each relevant record company.

You also need the consent of each of the **performers** when recording live music. (Note that in the absence of an agreement to the contrary, the performers will co-own the copyright in the recording with the person who owns the master of the recording itself unless you commission someone to make the recording for you or you get each performer to assign his or her interest to you or your organisation or all of the performers are your employees and you haven't agreed that they can own copyright).

The licences available from collecting societies for recording music in church services are set out in the following paragraphs.

#### *Recording church services for people unable to attend*

AMCOS and the Australian Record Industry Association (ARIA) grant a free general licence to churches to record church services in which musical works and recordings controlled by members of either of those organisations are played, if the recordings are made for people unable to attend the services due to age, illness or disability or because they are housebound ("shut-ins"). This licence only applies if the recordings are distributed free of charge. You do not need to contact either AMCOS or ARIA in relation to this licence.

However, this licence does not cover music or sound recordings where the copyright owners are not members of AMCOS or ARIA. As noted above, many Christian music publishers are not members of AMCOS. Nor does the licence cover other copyright material (such as recited poems, liturgies or sermons) recorded as part of the service.

For further information, see the APRA/AMCOS publication *Music copyright for Churches*, which can be downloaded from:

<http://www.apra-amcos.com.au/downloads/file/Music%20Consumers/Music-Copyright-Guide-for-Churches.pdf>

#### *Christian music licences*

There are a number of organisations which offer licences to churches in relation to recording Christian music in church: Christian Copyright Licensing International (CCLI), Word of Life and LicenSing are the ones we are aware of. Which licences you need and which organisations you should contact will depend on what you are doing and on which organisation can offer licences for the uses you wish to make.

The licences offered by CCLI permit recording of their member's music within church services. For further information, go to: <http://au.ccli.com/>

If you have a licence from one of the other Christian music collecting societies, you should check whether or not, and if so in what circumstances, your licence allows you to record the music. None of these licences cover sound recordings, or other copyright material recorded as part of the service. Contact details of the organisations we are aware of are listed at the end of this information sheet.

If your church has such a licence, you should return the forms they supply for detailing the music used to the collecting society, **not** to the Australian Copyright Council.

#### *Licence for recording published music*

The Copyright Act allows the recording of performances of published music where the recordings are to be sold, provided the copyright owner is notified and receives royalty payments. A licence (known as the "Audio Manufacture Licence") that reflects this statutory scheme is offered by AMCOS.

For further information, see APRA/AMCOS: [www.apra-amcos.com.au](http://www.apra-amcos.com.au)

### **Making video recordings of services**

#### *Weddings, christenings, funerals*

AMCOS, in conjunction with ARIA, offers licences allowing music to be recorded onto video of private functions (such as weddings and christenings) for private or domestic use. The licences cover the copyright in both the music and the sound recordings. The licence allows up to 20 copies of the video to be made.

Obtaining this licence is the responsibility of the person making the video (for example, the relevant relative or professional video maker). Churches are not obliged to check whether or not people recording weddings on church premises have a licence to do so.

The CCLI licence permits both audio and video recording of some of its members' works in church services. Of course, separate permission would be needed from the owners of copyright in any sound recordings or other copyright material you are recording, and from any performers being recorded.

#### *Other church services*

If the church itself wants to make videos of church services it will need to get a special event licence from AMCOS/ARIA, either on a service by service basis or on an annual basis. For further information about these licences, contact AMCOS.

If your church uses music not licensed by AMCOS/ARIA, you may be able to rely on a licence from one of the Christian licensing organisations. We understand that the CCLI licence permits both audio and video recording of some of its members' works in church services. Of course, separate permission would be needed from the owners of copyright in any other copyright material recorded as part of the service, and from any performers being recorded.

### **Copying print materials**

Generally, permission is needed to copy printed materials, including music and lyrics, unless copyright has expired or a special exception applies.

#### **Text, including song lyrics**

Copyright Agency grants a licence which allows churches, in specific situations, to copy material in which Copyright Agency's members hold rights. The licence allows material to be copied for use in

church services and in related church activities, such as Sunday School classes. (Note, however, that this licence does not cover copying by church schools for educational use. That copying is done under a statutory licence for educational institutions, which is also administered by Copyright Agency.)

The Copyright Agency licence covers most printed material, including hymn books (if they only contain lyrics), but does not cover music. If you want to copy sheet music, for example to hand out to the choir, then unless all copyrights have expired, permission will be required from the music publisher or from the relevant Christian music collecting society.

For more information see Copyright Agency's information sheets *Worship Licence* and *Worship Licence: Group Option*, or contact Copyright Agency or the relevant Christian music collecting society.

### **Printed music**

Permission to copy printed music should usually be sought from the publisher of the music. However, there is no obligation on the music publisher to give permission, and the publisher is likely to refuse permission if the music is available for purchase.

As noted above, the licence available from Copyright Agency does not cover music. However, the Christian music licensing organisations, such as CCLI, offer licences for reproducing music and lyrics. For further information, contact the relevant collecting society.

You may also be able to obtain information from AMCOS: [www.apra-amcos.com.au](http://www.apra-amcos.com.au)

## **Frequently Asked Questions (FAQs)**

### ***How do I find out what music is in the “public domain”?***

Material in which copyright has expired is said to be in the “public domain”. Generally, you will need to apply the various rules relating to duration of copyright to work out whether or not copyright has expired. For more information, see our information sheet, *Duration of Copyright (G023)*.

There is no comprehensive list of musical works in the public domain in Australia. AMCOS compiles a list of Christmas carols and similar works and their copyright status. The list is available on AMCOS's website.

AMCOS and the bodies that license church music also have extensive databases and lists which may help you work out whether or not a work is still protected by copyright. Often, however, you will need to consult music reference books (available in public libraries) to find the necessary information about when a composer or lyricist died.

### ***How much of a hymn book may I photocopy?***

For the purposes of copyright, a hymn book is not a single “work” but a collection of works; the music to each hymn is regarded as a separate “work”, as are the words to each hymn. This is important when determining whether or not a “substantial part” has been reproduced: the part is assessed having regard to the work it is part of (such as the music for a hymn) rather than the whole book it is in (such as a hymn book).

Copying the whole, or a “substantial part”, of the music or words of a hymn requires permission, unless a special exception applies, or the copyright has expired.

The typographical arrangement in a hymn book (“published edition”) may also be protected by copyright. However, it is unlikely that you would need permission in relation to the typographical

arrangement if you are just photocopying a few hymns; rather, you will need to concentrate on whether or not you need permission to copy the music and lyrics of those particular hymns.

The photocopying of some hymns is licensed by the various licensing bodies whose contact details are provided below.

***Can I transpose a hymn into another key and photocopy several copies of the transposition?***

In general terms, you will need permission from the copyright owner, since transposition involves reproduction of the original work. However, AMCOS states that if you own the original print music of work controlled by its members “you may exactly transpose (that is transcribe but not rearrange) one transposition only for the sole purpose of performing the piece. The resultant transposition may not be photocopied, sold, hired or lent.” (See AMCOS’ publication *A Practical Copyright Guide to the Use of Print Music in Australia*, which can be downloaded from: [http://www.apra-amcos.com.au/downloads/file/Music%20Consumers/printmusic\\_2006.pdf](http://www.apra-amcos.com.au/downloads/file/Music%20Consumers/printmusic_2006.pdf)).

***When performing, choir members have to juggle a number of Psalters, hymn books and anthem books. Can we make folders of photocopies to avoid this problem?***

There is no special provision in the Copyright Act that allows photocopying in these circumstances – if you want to make photocopies in these circumstances you will need permission, unless you already have a licence that allows the copying or all relevant copyrights have expired.

***Members of our congregation meet in one another’s homes for services. Do we need permission to sing hymns at these meetings?***

We understand that APRA’s policy of not requiring formal permission for public performances of most music during church services extends to church groups operating in homes.

**Copyright collecting societies**

**APRA/AMCOS:** [www.apra-amcos.com.au](http://www.apra-amcos.com.au); phone: 1300 852 388 (Licensing Services) or (02) 9935 7900.

**PPCA:** [www.pcca.com.au](http://www.pcca.com.au); (02) 8569 1111.

**Copyright Agency:** [www.copyright.com.au](http://www.copyright.com.au); (02) 9394 7600.

**Christian Copyright Licensing International:** <http://au.ccli.com>; (02) 9894 5386.

**MediaCom/LicenSing:** [www.mediacom.org.au](http://www.mediacom.org.au); (08) 8371 1399 or 1800 811 311.

**Word of Life International:** [www.freelink.com.au](http://www.freelink.com.au); (03) 5664 9245.

**Further information**

For further information about copyright, and about our other publications and seminar program, see our website: [www.copyright.org.au](http://www.copyright.org.au)

If you meet our eligibility guidelines, a Copyright Council lawyer may be able to give you free preliminary legal advice about an issue that is not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries. For information about the service, see:

<http://www.copyright.org.au/legal-advice/>

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Our information sheets are regularly updated - please check our website to ensure you are accessing the most current version. Should you wish to use this information sheet for any purpose other than your reference, please contact us for assistance.



## Australian Copyright Council

**The Australian Copyright Council is a non-profit organisation whose objectives are to:**

- assist creators and other copyright owners to exercise their rights effectively;
- raise awareness in the community about the importance of copyright;
- identify and research areas of copyright law which are inadequate or unfair;
- seek changes to law and practice to enhance the effectiveness and fairness of copyright;
- foster co-operation amongst bodies representing creators and owners of copyright.



**Australian Government**



*The Australian Copyright Council has been assisted by the Australian Government through the Australia Council, its arts funding and advisory body.*

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