

COPYRIGHT ISSUES FOR MARRIAGE CELEBRANTS – Summary information sheet

1. What is copyright and how does it affect marriage celebrants?

In Australia, original musical, artistic, literary and dramatic works are protected by the *Copyright Act 1968* (the Act), which also protects sound recordings, films, broadcasts and published editions.

Copyright is a bundle of exclusive economic rights granted under the Act to copyright owners for a limited period. Copyright owners have exclusive rights in relation to the *publication, reproduction, public performance, communication and adaptation* of their work, and can licence the use of this material by others. These rights are also often managed for owners by publishers or copyright collecting societies.

The basic principle is that if you are exercising one or more of the exclusive rights listed above *in relation to a work in which copyright subsists* you will usually require permission or a licence from the copyright owner. The following are examples of common situations that may involve copyright issues:

1. Copying of lyrics in wedding/civil ceremony booklets
2. Copying of poetry or literary extracts in wedding booklets
3. Copying of print music for use by choirs, singers, instrumentalists
4. Copying lyrics onto overhead transparencies
5. Making video recordings or audio recordings of weddings
6. Making backing tapes/recordings to play during the wedding or reception; and
7. Publicly performing music and/or sound recordings

2. Examples of uses for which you are unlikely to need to obtain permission

Not all material used in a wedding service will be in copyright and so require permission to use. Copyright protection generally only lasts until the expiry of 50 years after the death of the creator, so older material may now be out of copyright (in the public domain). Also, certain limited uses may be made of works which are still in copyright without the need to obtain permission.

- **Publicly performing music and/or sound recordings at weddings and receptions**

Usually public performance licences are required for the playing of sound recordings (administered by the PPCA) or the public performance of live music (administered by APRA). However, both APRA and PPCA have waived the requirement to obtain licences for performance of music or sound recordings within a wedding service irrespective of the location of the wedding (ie, whether the ceremony is conducted on church premises or in a public park or other indoor and outdoor venue).

However, a celebrant needs to be aware that wedding receptions are often treated differently from the ceremony itself only in relation to the licensing of music in general – a licence may be required for both the service and the reception in other cases (eg, making video recordings, see below). APRA *exempts* the performance of *music* at a wedding reception from the requirement to obtain a public performance licence. However, a licence *is* still required from the PPCA for *public playing of sound recordings at*

wedding receptions. While in most cases the owner/occupier of premises is responsible for obtaining a licence, celebrants should inquire whether a licence has been obtained, (the responsibility for obtaining a licence may rest with the marriage celebrant under the agreement relating to hire of the reception premises). A general licence applies to the public playing of sound recordings at both indoor and outdoor receptions; the applicable fee is PPCA Tariff A (either an annual licence or a per-event licence).

See: <http://www.pcca.com.au/tariffsmain.htm>.

- **Reproducing traditional hymns or song lyrics for inclusion in wedding booklets**

As hymns are protected for the life of the lyricist plus 50 years, copyright would have expired in many older hymns, in which case they can be freely used. Many hymnbooks list the date of death of composers or lyricists under the hymns, so you can often work out yourself whether copyright has expired. If the lyricist of a song is still alive (or died within the last 50 years) you may need permission to reprint the lyrics. If you are unsure who the music publisher is, or don't know their contact details, the Australasian Mechanical Copyright Owners' Society (AMCOS) may be able to assist you.¹ Eg you wish to reprint the words of 'I will always love you' written by Dolly Parton, in an order of service. As the song is still in copyright, you will need to contact the copyright owner to obtain permission.

- **Using older musical compositions (eg, hymn melodies) that are out of copyright – these may be copied – so long as they are not in the form of a modern arrangement or transcription that is still in copyright.**
- **Reading or reciting a reasonable portion of a published literary or dramatic work in public (provided the work is acknowledged) is an exception to copyright, and no permission needs to be obtained.**

It is important to note that *reproducing (copying)* a literary or dramatic work on a printed order of service (as opposed to merely reciting it) requires permission to be obtained from the copyright owner (author or publisher). If the work is out of copyright and you are photocopying from a publication, such as a book (eg, a modern edition of the poetry of Keats), the published edition may be protected by copyright (copyright in a published edition lasts for 25 years from the date of publication). Taking one short poem or extract from a large edition is unlikely to require permission of the owner of copyright in the edition.

3. Examples of uses of material for which you are likely to require copyright clearance:

- **Modern music**

Copyright in sheet music copied for use by choirs, singers and instrumentalists may subsist separately in the music, in the lyrics, in any translation or arrangement of the music or lyrics and in the published edition of the print music (see 2 above). The term of such copyrights is the life of the author plus 50 years. Permission to copy sheet music should be sought from the Australasian Mechanical Copyright Owners' Society (AMCOS) for the copying of the musical work in the recording (see: <http://www.amcos.com.au/Licence/LicIntro.htm>).

Copyright may also subsist in sound recordings of the works of traditional composers, such as J.S. Bach, as copyright subsists in sound recordings for 50 years from the date of the recording. If you wish to copy the material (such as taping the material or burning the material onto a compilation-CD), you will need to get permission from the owners of copyright in the recording. In most cases the owner of copyright in sound recordings is the record company; however, the Australian Record Industry Association (ARIA) can assist in locating the owner (see, <http://www.aria.com.au>) or phone (02) 9267 7996). In addition, you may also need to take out a manufacture licence from AMCOS.

- **More recent poetry or literature**

Copyright subsists for the life of the author plus 50 years. In relation to reproduction, see 2 above.

- **A caution regarding material on the Internet**

The copying of music (particularly modern music) from the Internet and particularly from the 'peer-to-peer' or P2P file sharing/swapping facilities (such as the former Napster service) is very widespread. You

¹ (see: <http://www.amcos.com.au/Resource/ResMpub.htm>).

will need to be extremely careful if you wish to download or burn music from the Internet, as many of these websites contain unauthorised reproductions of material. If you in turn copy this material, you will be infringing copyright, and may be subject to legal action.

4. When will I need to obtain a licence?

The right to reproduce (copy) material (such as a sound recording) and the right to publicly perform a work (such as a song or poem) are the rights that are most commonly exercised by celebrants and for which a copyright licence is likely to be required.

- ***Making video recordings of weddings***

If you wish to make a video recording of a wedding and either dub sound recordings of music later, or record live music as it is being played at the service, you will need some type of licence if the music and/or sound recordings are in copyright. This also applies in cases where music is played in the background and may not be the main feature of the video. AMCOS and ARIA (see below) offer a joint ***special events licence*** which allows the video operators to make videos for special occasions including music or sound recordings (available as a single event or annual licence).

- ***Making audio recordings of weddings***

If you wish to make an audio recording of a wedding, for example, of musical performances at the wedding, you will need to apply for a manufacture licence from AMCOS if the music is in copyright (see <http://www.amcos.com.au/Licence/LicIntro.htm>).

- **Recording weddings – be aware of performers' rights**

It is important to remember that any type of live recording – whether audio or video – requires the performer's consent. This is additional to any licence that is taken out for the reproduction of the music. It would be a very good idea to make sure, prior to the wedding, that the performers agree to their performance being recorded (by video or audio equipment). A 'performer' in this context also includes a minister, marriage celebrant, a musical performer, instrumentalist or vocalist, dancer etc.

- ***Making recordings to play during the wedding or reception***

If you are copying an existing sound recording (such as making a back-up copy or a compilation CD), you will need to obtain the permission of the record company (through ARIA) that owns copyright in the sound recording that you wish to copy. In addition, you will need to take out a manufacture licence from AMCOS for the copying of the musical work in the recording or a licence from the PPCA (see 2, above).

Contact details: Copyright collecting societies

Australasian Performing Right Association (APRA) licences the public performance of music and lyrics: see, <http://www.apra.com.au/Licence/RecSpec1.htm> or phone (toll-free) 1800 882 772.

Phonographic Performance Company of Australia (PPCA) licences the public playing of sound recordings: see, <http://www.pcca.com.au/licensinginfo.htm>.

Australasian Mechanical Copyright Owners Society (AMCOS) administers licences for reproducing music and lyrics: see, <http://www.amcos.com.au/Licence/LicIntro.htm>.

This fact sheet provides general information only and is not a substitute for professional legal advice.

For further information, see 'Information Sheet – Copyright Issues for Marriage Celebrants'.

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September 2002

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