



## University of Zimbabwe Library

### Guidelines on Copyright in eLearning

This guide provides general education information on Copyright considerations when incorporating copyrighted work into new works on the University of Zimbabwe eLearning platform



### Definitions

**Copyright-** In terms of the Copyright and Neighbouring Rights Act (referred to as copyright Act herein), Chapter 26:05, Copyright means the exclusive legal right to produce, reproduce, copy, publish, sell or distribute the matter and form of something such as a literary, musical or artistic work, movies, sound recordings, paintings, computer programs and databases, industrial designs, choreography, photography, films, plays and sculptures.

**Creative commons** this refers to a public globally accessible commons of knowledge and culture used to share creative and academic work, as well as to access and build upon the work of others

**Fair dealing** is a user's right in the copyright law permitting use of or dealing with a copyright protected work without permission or payment of copyright royalties. Fair dealing is permitted for private use including for the purpose of research or criticism or review or news reporting.

### Copyright guidelines in eLearning

1. The content uploaded on the University of Zimbabwe Learning Management System should comply with the provisions of the Zimbabwe Copyright and Neighbouring Rights Act, Chapter 26:05 <http://www.veritaszim.net/node/466>
2. The eLearning content may include formats or media such as PowerPoint presentations, books, book chapters, audio-visual, statutes, software, journal articles, photographs, maps.
3. Before uploading any content on the eLearning platform, please ensure that the content is copyright free or adheres to the provisions of "Fair dealing" as provided by the Copyright Act.
4. It is always critical to assess copyright considerations before uploading any content on the eLearning platform

5. It is illegal to upload copyrighted material without obtaining clearance from content creators.
6. If there is need to use content created by others without violating their copyright, search in the Creative Commons archive (Accessible here: <https://creativecommons.org/>). Content in the Creative Commons archive can be used under “Fair dealing” guidelines.
7. If you are alleged to have infringed upon someone else’s copyright, refer to the relevant Sections of the Copyright and Neighbouring Rights Act for legal ways of issuing counterstatements.
8. Infringement of copyright is defined in section 51 of the Act as follows: -

**51 Infringement**

*(1) Copyright is infringed by any person who is not the owner of the copyright and who, without the owner’s authority, does or causes any other person to do an act in Zimbabwe which the owner has the exclusive right to do or to authorise.*

*(2) Without derogation from subsection (1), the copyright in a work is infringed by any person who, without the authority of the owner of the copyright, does any of the following things in Zimbabwe*

*(a) in relation to an article which is an infringing copy and which the person knows or has reason to believe is an infringing copy—*

*(i) makes it; or*

*(ii) otherwise than for his personal and private use, imports it into Zimbabwe or exports it from Zimbabwe; or*

*(iii) in the course of business, possesses it or exhibits it in public or distributes it; or*

*(iv) sells it or lets it for hire or offers or exposes it for sale or hire; or*

*(v) otherwise than in the course of business, distributes it to such an extent that the owner of the copyright is prejudicially affected;*

*(b) in relation to an article which is specifically designed or adapted for making copies of the work and which the person knows or has reason to believe is likely to be used for that purpose—*

*(i) makes it; or*

*(ii) imports it into Zimbabwe or exports it from Zimbabwe; or*

*(iii) possesses it in the course of business; or*

*(iv) sells it or lets it for hire or offers or exposes it for sale or hire.*

9. When developing eLearning course content, you may need to incorporate content from others such as peers, the Internet and print resources. The question is, “**Can you do that without infringing the provisions of the Copyright Act**”?

**Yes**-with certain limitations. The following is an extract from the Zimbabwe Copyright Act regarding the use of copyrighted material for educational purposes.

## **25 Educational use of copyright material**

(1) *Subject to this section, the copyright in a work shall not be infringed by the use of the work by way of illustration in any publication, broadcast or record for teaching if—*

- (a) the use is compatible with fair practice; and*
- (b) the extent of the use is justified by the purpose; and*
- (c) sufficient acknowledgement is given.*

(2) *The copyright in a work shall not be infringed by anything done for the purposes of an examination by way of setting questions, communicating the questions to the candidates or answering the questions:*

*Provided that this subsection shall not extend to making a copy of the score of a musical work for use by an examination candidate in performing the work.*

(3) *The inclusion of a short passage from a published literary work in a collection which—*

- (a) is intended for use in educational establishments and is so described in its title and in any advertisement issued by or on behalf of the publisher; and*
- (b) consists mainly of material in which no copyright subsists;*

*shall not infringe the copyright in the work if the work itself is not intended for use in such establishments and its inclusion is accompanied by a sufficient acknowledgement:*

*Provided that not more than two such excerpts from copyright works by the same author shall be included in such collections published by the same publisher in any period of five years.*

(4) *The performance of a dramatic or musical work before an audience consisting of teachers and pupils at an educational establishment and other persons directly connected with the establishment's activities shall not be regarded as a public performance for the purposes of infringement of copyright if the performance is given—*

- (a) by a teacher or pupil in the course of the establishment's activities; or*
- (b) at the establishment by any person for the purposes of instruction:*

*Provided that a person shall not be regarded as directly connected with the establishment's activities for the purposes of this subsection simply because he is a parent of a pupil.*

(5) *The playing or showing of an audio-visual work, a sound recording, a broadcast or a cable programme before an audience consisting of teachers and pupils at an educational establishment and other persons directly connected with the establishment's activities shall not be regarded as a public performance of the work for the purposes of infringement of copyright if the work is played or shown for the purposes of instruction:*

*Provided that a person shall not be regarded as directly connected with the establishment's activities for the purposes of this subsection simply because he is a parent of a pupil.*

*(6) Copyright in a literary or musical work shall not be infringed by an educational establishment which, by reprographic copying, makes copies of passages from the work for the purposes of instruction:*

*Provided that—*

- (i) the extent of such copying shall not exceed such limits as may be prescribed; and*
- (ii) no such copying shall be authorised by this subsection if, or to the extent that, a licence or a licence scheme is available authorising the copying in question and the person making the copies knew or ought to have been aware of that fact.*

*(7) No act shall be regarded as permitted by this section if it conflicts with a normal exploitation of the work concerned or prejudices unreasonably the legitimate interests of the owner of copyright in the work.*

10. Where you incorporate copyrighted works of others in your own compilation of teaching and learning materials, you must acknowledge the source and avoid infringing the author's moral rights as provided in sections 61 -67 of the Act

### **Protecting content on the eLearning platform**

- In Zimbabwe, Copyright does not depend on official procedures such as registration. Protection of created works is automatic with effect from date of creation of the works.
- A voluntary deposit rule for created works is available. Three copies are stamped by a lawyer and the Copyright Registrar upon deposit. This is in harmony with The Berne Convention for the protection of Literary and Artistic Works.
- Use the copyright symbol © on all original works during the development of the eLearning content.
- Once copyrighted, the eLearning material receives special protections that make the creator the exclusive owner, allowing ultimate control on its distribution, use and dissemination.
- Special economic opportunities can be realised from copyrighted works.

**N.B** This document was prepared to provide guidance and it not a substitute of the Zimbabwe Copyright Law.

For more information and support, contact the University of Zimbabwe Library via email: [library@uzlib.uz.ac.zw](mailto:library@uzlib.uz.ac.zw)