

## 5.9 COPYRIGHT AND THE ANGLICAN DIOCESE OF NEWCASTLE

### PART 1 – INTRODUCTION

There are no general provisions in the Copyright Act 1968 allowing churches to use material without the copyright owners' 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 exemption, all of these users need permission to use the material in the ways reserved to the copyright owner.

Copyright law provides protection for the original creators of works while encouraging them to continue to develop and create new works.

*“A copyright is an exclusive right given to an author of an originally created work. It is an asset, a legal interest, and protected by law. Included in the exclusive rights given to the copyright owner is the right to copy the work into any form, including in print, on screen, or on tape”.*

*“The copyright law is very clear on copying music. If you do not have express permission from the rightful owner of the song, you cannot make a copy. (It is advisable to have that permission in writing in case of need for legal reference.) There have been a number of copyright disputes, although most have been settled privately. You can imagine how uncomfortable it is for a Christian songwriter to address legal entanglements with a church.”*

[Source: *What is Copyright?* By CCLI (Australia)]

The Copyright Act provides protection against the false use of individual works as there is no registration system for copyright in Australia.

Generally speaking, before the words of a hymn/song are copied and reproduced for worship, the permission of the copyright owner must be received. No permission is required where

- (a) no © symbol appears with a published text, or
- (b) the author has been dead for at least 70 years, as once this occurs the item is regarded as being in the Public Domain, and no permission is necessary for its reproduction.

In all other cases, permission must be received before reproduction and printing of hymns/songs/poems for church orders of service or overhead projection can occur.

The Australian Copyright Council provides comprehensive support information concerning the many aspects of Copyright, including an information Sheet providing **“An Introduction to Copyright in Australia”** and **“Churches and Copyright”** [Appendices A and B]. It is recommended that these two items are read by all Parish musicians, Parish Council members and all who are involved in the reproduction of such material.

There are some situations where copyright law allows people to use copyright material without permission for their own personal use, but these are narrow and specific (refer to the Copyright Council Information Sheet titled ***Churches & Copyright [Appendix B]***).

The following Information Sheets provided by the Australian Copyright Council can be found at [www.copyright.org.au](http://www.copyright.org.au).

- DVDs and Videos – Copying and Downloading
- Editors and Copyright
- Exceptions to Copyright
- Fair Dealing
- Fees and Royalties for use of Copyright Material
- Film and Copyright
- Films, DVDs, Videos and TV Screening in Public
- Infringement: Actions, Remedies, Offences
- Infringement – What can I do?
- Internet: Copying and Downloading
- Logos: Legal Protection
- Moral Rights
- Music: Bands
- Music and Copyright
- Music: Choirs, Orchestras, Ensembles and Private Music Teachers
- Music: Concerts, Musicals and Plays
- Music: Copying CDs, MP3's, Cassettes and Records
- Ownership of Copyright
- Websites and Copyright

### **APRA Guidelines on Copyright**

The Australian Prudential Regulations Authority (APRA) has produced a comprehensive *Music Copyright - Guide for Churches* which provides a practical copyright guide to using music to “its full potential”. A full copy of this is attached at **Appendix C**.

### **Life of Copyright**

As mentioned earlier, for all published musical and literary works, copyright in 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 [**Appendix D**].

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

## PART 2 - MUSIC

### 2.1 Exemption to Copyright

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 Information Sheets on *Research or Study* and *Fair Dealing*].

*“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 (eg, 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.”* [Extract from Information Sheet on Churches and Copyright]

### 2.2 Music in the Public Domain

Should the symbol © not appear on a piece of music or lyrics it is known as being **in the public domain** and there is no problem with copying the music or the words.

Most public domain hymns can be found on the Choral Public Domain website at <http://www.cpd.org>

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

### 2.3 Licenses

#### 2.3.1 Diocesan Held Licences on behalf of Parishes

The Diocese holds the following two licences on behalf of every Parish, which are renewed by the Diocese annually. The Parish contribution to the Licence is based on the average weekly church attendees as recorded in the Parish Annual Returns. Each parish is invoiced for this amount early each year.

- (a) **Christian Copyright Licencing International (CCLI) License** - Each Parish has its own Licence number (see **Appendix D** for your Parish License number). This should appear when copyright is publicly acknowledged; and
- (b) **Copyright Agency Limited (CAL) License**– The whole Diocese has the same number for this License - W1407. This number should also appear when copyright is acknowledged. See later in this paper for examples of copyright acknowledgements.

These two licenses permit parishes to copy or reproduce words and music contained in their databases which may be accessed on-line and used in the following forms

- overhead transparencies
- church bulletins
- service booklets
- audio and video recordings of liturgies
- customised arrangements of music.

#### **Christian Copyright Licensing International (CCLI) License**

In accordance with the terms of the CCLI License agreement, the Parish shall specifically:

- appoint a **License Representative** (License Agreement Clause 5.5) who shall ensure the Parish complies with the requirements of the Copyright Act 1968;
- ensure that an accurate record is maintained for every song presented in the *Parish Copyright Report* to be available should CCLI request access (Licence Agreement Clause 5.4)
- ensure that it complies with the terms of this Agreement.

As well as hymns/songs, and chants used during regular worship services, items used during weddings, funerals, and other special occasions, or non-eucharistic services, are required to be recorded.

#### **Copyright Agency License (CAL)**

Copyright Agency Licence has designed an annual licence that will allow any Religious Organisation to copy and communicate third party material as required. Under this licence the following can be undertaken without seeking individual permissions each time:

- copying of up to 10% or one chapter from any book, journal or magazine;
- downloading and storage of 10% of the number of words in a digital work or one chapter;
- displaying material on a data projector or in powerpoint presentations;

- distributing hard copies of materials to a congregation or clients for weddings, funerals, Sunday schools, etc.
- scanning and storage of material on a computer hard drive.

In order to be sure that any item is covered, a search should be made using the opening words of the item.

Songs not covered by CAL may be covered by CCLI and vice versa.

If the item is covered, then it may be reproduced. If the item is not covered, then the author's permission must be sought and received prior to printing, or the item cannot be reproduced and therefore should be replaced by another item (one that is covered by the particular copyright agency).

### **Cost to the Parish for Music Copyright Licenses**

Each of these licence providers base their fees on the average number of attendees at a Sunday service; these figures are determined by the Parish Annual Return statistics and should be the same figures used for a Word of Life or LicenSing licenses.

**2.3.2 Other Copyright Licenses Available** are Word of Life and LicenSing, which if a Parish wishes to use material available only through these resources, the Parish is responsible for arranging and payment for the license.

### **Word of Life International**

An additional licence source is available to Parishes from a **Word of Life Licence**. Following is an extract from its website <http://www.freelink.com.au/wolstart.htm>. *Word of Life* covers over 80,000 items from many of the popular religious publishers of the past 30 years. It certainly covers a lot of TiS items. Its website <http://www.freelink.com.au/wolstart.htm> gives details of licenses offered. This website offers a database search facility

The licence options listed below cover many of the favourite religious publishers, both from Australia and overseas. These licences make it very simple to conform to Australian Copyright law.

- **Annual Restricted Copyright Licence** - This licence grants permission to reproduce words and melody lines only for congregational use. The types of reproduction would include commemorative booklets, overhead transparencies and projection. Please note: A church's or school's average weekly attendance deems the category licence needed.
- **Music Copy Licence** - This licence allows the reproduction of sheet music for musicians and choirs
- **One Time Use Licence** - A licence to be used for 7 days, for a retreat or an event out side the church.

- **Extended "Whole of Parish" Copyright licence** - Is an extension to the Annual Restricted Copyright licence and the Music Copy licence. Specifically to licence up to 4 churches within one parish which must be administered by the same Parish Priest.

These copyright licences cover over 80,000 titles from many of the popular music publishers of the last 30 years.

### **LicenSing On Line**

LicenSing provides a variety of licensing options for Churches for reproduction of music from more than 250 music publishers and copyright holders worldwide covering over 100,000 well-known songs. Under this license, the music of songs can also be reproduced which is useful for choirs or music groups. Information is available on <http://www.licensingonline.org>. This website also provides a database search facility.

### **PART 3 – REPORTING USAGE**

If a parish regularly reproduces hymns/songs it should keep a **Parish Copyright Report** providing details of the hymn/song title, the source document (i.e. Ancient and Modern Hymns, Together in Song, Mission Praise, the CCLI Number, CAL number, date/s used (i.e. regular / irregular services, occasions). See copy of a sample Parish Copyright Report at **Appendix F**.

The reporting procedure differs for these four Copyright groups, as follows.

#### **CAL**

- (i) requests an accurate report be maintained with sufficient detail to ensure that all amounts payable to CAL under the Agreement can be properly ascertained;
- (ii) may request to be provided with such information which from time to time it requires;
- (iii) may request to examine the Parish's records.

**CCLI** requires the items of copyright to be reported on-line at [www.ccli/customer/how-do-i-report](http://www.ccli/customer/how-do-i-report).

**Word of Life International** requires a completed report to be forwarded to it before the end of the license period utilising the attached Form (**Appendix G**).

**LicenSing** requires a report prepared on-line at [www.licensingonline.au/user/logon](http://www.licensingonline.au/user/logon).

### **PART 4 – COPYRIGHT AND BROUGHTON PUBLISHING**

#### **4.1 Copyright and *A Prayer Book for Australia (1978)* and *An Australian Prayer Book (AAPB)***

Broughton Publishing is the publishing arm of the Anglican Church in Australia and is charged with administering the copyright obligations of these two publications. The use of material from these publications in pew bulletins, service booklets, overhead projections, and other published material by a Parish should reflect the copyright status including the source document and the page number. [For example ***From an Australian Prayer Book (AAPB). Copyright Broughton Publishing 1995, pages ..... to .....***].

Each parish which reproduces excerpts from these publications must pay for a licence which goes towards maintaining, printing and promoting the use of the publications. The Annual Copyright License is obtained from Broughton Publishing at [www.broughtonpublishing.com.au](http://www.broughtonpublishing.com.au) at a cost of \$125.00 (which is exclusive of copyright for ePray).

If a Parish wishes to check that they have full licence cover, please contact Broughton Publishing by telephoning 02 9560 7077 or by email at [bob.anderston@broughtonpublishing.com.au](mailto:bob.anderston@broughtonpublishing.com.au) providing your invoice or payment details for either the copyright licence or ePray licence so that Broughton's records can be checked.

#### **4.2 Epray**

Many Parishes have taken out a subscription to ***Epray*** which is a web-based tool to assist in preparing liturgical texts for use in electronic or printed form. It is a system which integrates the fixed items of Anglican services with the items which vary whether weekly, in the form of collects and readings, or on the occasion, such as names and gender in baptism and funeral services. Subscriptions to ***Epray*** automatically includes the copyright licence for the Prayer Book for Australia. The current annual fee for copyright for ePray (which is inclusive of copyright for *A Prayer Book for Australia (1978)* and *An Australian Prayer Book*) is \$229.00.

The latest upgrade of ***Epray***, Broughton Publishing's web-based worship planner has now been released. The program offers an electronic Lectionary, an automated service creator, the readings for every day from the NRSV and NIV, a daily prayer shortcut, an e-book of the APBA as well as other resources.

#### **Note:**

Copyright guidelines for preparation of films, DVD's, videos, TV screenings and other media will be prepared and distributed to form future parts of this document.

## Appendices

- A. Australian Copyright Council – An Introduction to Copyright in Australia
- B. Churches and Copyright
- C. APRA Guidelines titled *Music Copyright – Guide for Churches*
- D. Duration of Copyright
- E. CCLI Parish License Numbers
- F. Sample Parish Copyright Register
- G. Word of Life International Report on Copyright Usage

## **COPYRIGHT ACKNOWLEDGEMENT**

Following are sample copyright acknowledgements

### **For a Service Booklet**

*The hymns are taken from “Together in Song” published by Harper Collins  
Printed under Copyright Agency Limited (CAL) Licence No. W1407.  
Unauthorised copying prohibited.*

### **For a Service Booklet**

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#### **Organist**

Mr Peter Guy, Cathedral Organist and Master of the Choristers.

### **Individual Hymns**

#### **Hymn – O&N 607 – Take this Moment**

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