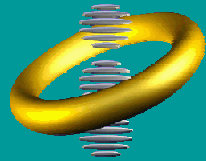


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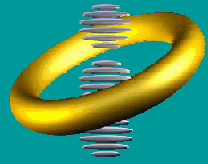
# Copyright for Education and Library Sector

Seminar for the Hong Kong Library Association  
10.5.06



# BACKGROUND

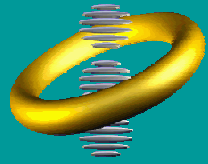
- Copyright protection begins in 1912
- First comprehensive, localised copyright legislation came into operation on 27.6.1997
- Major international treaties on copyright have effect in Hong Kong – including the Berne Convention, Phonograms Convention, WTO TRIPS Agreement



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# BACKGROUND

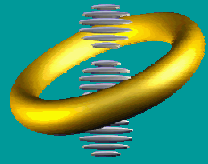
- Intangible property
- Protection of form of expression, not ideas
- Hong Kong protects copyright works from anywhere in the world



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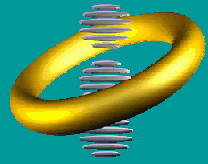
## What is protected?

- Literary, dramatic, musical or artistic works (life of author +50 years)
- Sound recordings, films, broadcasts or cable programmes (50 years after work is made)
- Typographical arrangement of published edition (25 years from first publication)



# Ownership

- Author is the first owner of copyright
- May be assigned or licensed
- Special cases:
  - (1) employee's work – employer is first owner
  - (2) commissioned work – statutory exclusive licence for commissioner of works
  - (3) Government copyright – Government is first owner

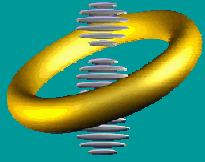


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# Copyright Infringement

## Restricted acts :

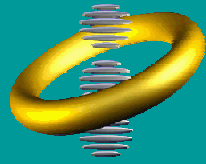
- copying & adaptation
- distributing
- rental of computer program or sound recording
- making available to public
- public performance
- broadcast, cable programme



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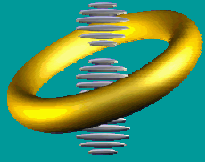
# Copying

- Not limited to “hard copies”
- Includes reproduction in any material form: scanning, downloading, faxing
- Substantiality test: both quality and quantity



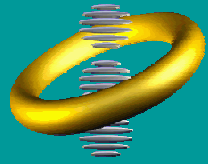
# Secondary Infringement

- Knowingly possess infringing copies in business
- Civil liability for all types of works
- Criminal liability
  - Computer program
  - Movie
  - TV drama
  - Musical recording



# Parallel Imports

- Infringing copy by definition, except computer program
- Import/knowingly possess for use in business :
  - civil liability
  - criminal liability, if imported within 18 months from first publication



# Permitted Acts

## Primary consideration

- Does not conflict with a normal exploitation of the work nor prejudice the legitimate interest of the copyright owner

# Permitted Acts (Fair dealing)

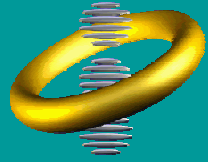
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Fair dealing for :

- criticism, review and news reporting
- research and private study

Whether a dealing is fair:

- purpose and nature of dealing
  - nature of work
  - amount and substantiality dealt with
-



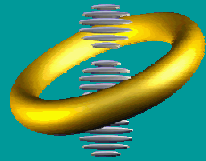
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# Permitted Acts (Education purposes)

- In the course of instruction, by persons giving or receiving instructions, not by reprographic means, reasonable extent
- For purposes of examination – setting questions or answering questions

## Permitted Acts (Educational establishments)

- Public performance for the purposes of instructions, in front of restricted group of audience (teachers, pupils, parents/guardians)
- Recording of broadcast or cable programme for educational purposes, in the absence of licensing scheme
- Reprographic copying to a reasonable extent for the purposes of instruction, in the absence of licensing scheme



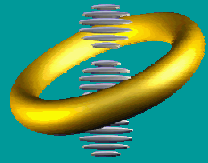
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# Permitted Acts (Librarians & Archivists)

## Sections 46-53 of Copyright Ordinance & Copyright (Libraries) Regulations

### (1) For research or private study

- Make and supply copies a single article from periodicals or a reasonable proportion of other works (numerical limits set out in the Regulations)
- On signed declaration
- One copy per person



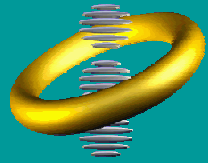
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# Permitted Acts (Librarians & Archivists)

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## (2) Supply of copies to other libraries

- An article in a periodical, whole/part of a published work, sound recording or film
- No previous copy supplied or copy supplied has been destroyed or damaged
- Name and address of copyright owner not known



# Permitted Acts (Librarians & Archivists)

## (3) For replacement or preservation

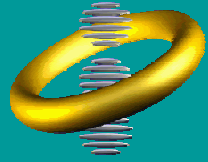
- In permanent collection of own library
- In permanent collection of another specified library an item which has been lost, destroyed or damaged
- When not reasonably practicable to purchase the item

## Permitted Acts (Librarians & Archivists)

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### (4) Articles of cultural or historical importance

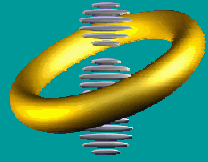
- May make a copy of such an article for deposit at the library
- If article is likely to be lost to Hong Kong through sale or export



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# Licensing Bodies (Public Performance)

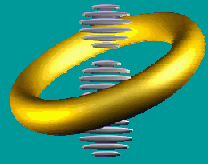
- The Composers and Authors Society of Hong Kong (CASH) <http://www.cash.org.hk>
- Phonographic Performance (South East Asia) Lt (PP(SEA)L) <http://www.ppseal.com>



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# Licensing Bodies (Reprographic Copying)

- Hong Kong Reprographic Rights Licensing Society (HKRRLS) <http://www.hkrrls.org>
- Hong Kong Copyright Licensing Association (HKCLA) <http://www.hkcla.org.hk>



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Thank You