

Q and A: Copying Service and the Copyright

The National Diet Library provides copying service within the limits of the Copyright Law and the NDL Rules Concerning Use of Library Materials so as not to impair the right of copyright holders. This handout provides answers to the questions frequently asked by library users in relation to the law and the rules.

Q1: How is the copyright law related to copying service?

The copyright law's purpose is to contribute to the development of culture through protecting the rights of authors having regard to a just and fair exploitation of cultural products (Copyright Law of Japan, Article 1). Concerning reproduction of one's work, Article 21 of the law stipulates that "***The author shall have the exclusive right to reproduce his work.***"

Every piece of work inherits something out of the cultural products of the past. A work is, so to say, the cultural property/heritage of human beings. While a work must be protected from infringement of rights, its extensive use is what gives value to the work.

Therefore, the copyright law contains provisions to limit a copyright holder's exclusive right to reproduce his/her own work. Article 31 "***Reproduction in libraries, etc.***" is one of them. It allows libraries, in consideration of their public roles, to reproduce library materials without permission from copyright holders under certain conditions. Copying service at the NDL is provided based on this article.

*An "author" is a person who has created a work and a "copyright holder" is the one who owns copyright. A "copyright holder" can be an author or someone who has obtained copyright through inheritance or other reasons. In this brochure, the word "copyright holder" is inclusively used except for the matters which exclusively apply to an "author."

Q2. Can I reproduce all pages of a book if it is out of print and only available at this library?

Copyright protection subsists in all kinds of publications except for the Constitution, laws and other works listed in article 13 as "*shall not form the subject matter of the rights provided for.*" Naturally copyright protection extends to most library materials including a work created by an individual author as well as to a white paper and report of a national and local government. **Publications out-of-print and those not commercially distributed are likewise protected.**

The duration of copyright is as follows:

- Work in general: ***a period of fifty years following the death of the author*** (Article 51)
- Work bearing the name of a corporate body: ***until the end of a period of fifty years following the making public of the work*** (Article 53)

During the term copyright endures as stated above, only "a part of a work" can be copied at a library without permission from the copyright holder.

Q3. What is the scope of "a part of a work"?

The Agency for Cultural Affairs and many experts interpret "a part of a work" as a portion not exceeding half of the work. However, there is no all-inclusive definition on where a work begins and ends.

The NDL considers the upper limit of copying as follows:

Book (monograph)

- i) A book complete in one volume: half of the body text
- ii) A book consisting of several volumes: half of each volume
- iii) A collected edition, anthology of short stories, etc.: half of each story, poem, thesis, etc.

Map

- i) A sheet of map: half of the sheet
- ii) An atlas book: one side of a two-page spread

Music score

Half of a piece of music

Serial publication (ex. Journals)

An issue regarding which "a considerable period of time" (see Q4) has passed since it was released:

- i) Each article: all pages of each article
- ii) Articles carried in one issue: half of all pages of one issue

*Reproducing a map published by the Geographical Survey Institute (Kokudo Chiri-in)

While approval from the director general of the Institute is required under Article 29 of the Survey Law, the Institute, in deference to the provision of Article 31 of the Copyright Law, allows an NDL user to obtain without approval a reproduction of up to half of a map, one set per person, provided that it is for the purpose of research.

*Reproducing a residence map of Zenrin Co., Ltd.

Zenrin Co., Ltd. allows an NDL user to reproduce without permission up to a half of a volume of a residence map published by Zenrin. Reproducing a residence map published by other companies: a two-page spread without permission of the copyright holder may not be allowed.

*Commentary and explanation

Every commentary and explanation of a painting, photograph, JIS (Japanese Industrial Standard), etc. is also subject to copyright protection. Therefore, you cannot reproduce more than half without permission of the copyright holder.

Q4. Why cannot I copy all pages of an article in the latest issue of a serial publication?

Copying all pages of an article in a serial publication can be allowed only if "a considerable period of time" has passed after it was issued. When the publication has become unavailable on the market, it is considered that "a considerable period of time" has passed. The NDL interprets "a considerable period of time" according to the following standards:

- i) weekly magazine: one week (available from the same day of the next week)
- ii) monthly magazine: one month (available from the same day of the next month)
- iii) seasonal or annual magazine: three months after publication (available from the same day three months later)
- iv) newspaper (daily): one day (available from the next day)

Q5. How can I reproduce all pages of a publication of which copyright sustains?

You must obtain written permission of a copyright holder. (Article 63)

There is no fixed form. A postcard will be accepted if it clearly shows that the copyright holder has given you permission with his/her seal or signature.

(Example)

To [your name]:

I agree that you may obtain at the National Diet Library (NDL) a reproduction of all pages of [name of the publication] owned by the NDL.

Date:
[Name of the copyright holder]
[Seal or signature]

*Please make your own search for the contact address of a copyright holder and the year of an author's death. You may find it in "Chosakuken daicho" or other reference books in the library. Without the written permission of the copyright holder or a document confirming that the author has been dead for more than 50 years (70 years in the case of a film), you cannot copy all pages of the publication.

Q6. Is the copyright of a book published in a foreign country protected under the copyright law of Japan as well?

Many countries including Japan have signed international agreements for copyright protection such as the "Berne Convention," "Universal Copyright Convention" and "Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)." A work created by a national of the signatories of these agreements or first published in those countries is **protected according to**

the copyright law of Japan under the principle of national treatment. (Article 6)

Q7. Can I obtain two identical copies?

Except for a publication whose copyright has expired or when you have obtained written permission from the copyright holder to do so, **you obtain only a single copy (set of copies)** from a library. When the library material's condition does not allow photocopying, you have to film the material first. (Please note that some library materials cannot be reproduced at all.) You can obtain either the film or a paper copy produced from the film.

*If you need a reproduction of library materials for judicial proceedings, you can reproduce them to the extent deemed necessary for the purpose under Article 42.

Q8. I wrote on the application form that my purpose for the reproduction is "for leisure," then they told me that I could not obtain a copy. Why?

Reproducing library materials at the library is allowed on condition that the purpose is for the applicant's "**own investigation or research.**" Although it does not mean that only scholars and researchers can make a copy, if the purpose is for leisure or other reason besides investigation/research, you cannot obtain a copy without permission from the copyright holder.

If you need a reproduction to include it in a publication or to make a reprint, you must also obtain permission from the NDL as well as the copyright holder.

Q9. Why is there no coin-operated copying machine?

To begin with, the NDL is, as the sole deposit library of Japan, **responsible for preserving library collections and making them available for future generations** as well as developing the collections and providing them for public use. Reproduction using a copying machine is a major cause of damage to library materials, ranking with the aging of paper. Damage to library materials is a loss of our cultural heritage which should be handed down to the future generations.

Moreover, according to the provision in Article 31 "*Reproduction in libraries, etc.*", it must be a library that makes the reproduction, not a user. Therefore it is assumed that allowing a library user to make a copy at his/her own discretion by providing a coin-operated copying machine is against the law.

These are the reasons why the NDL does not provide a coin-operated copying machine.

Self-service copying machines are installed in the Kansai-kan on the ground that most of its holdings are extra copies or those obtained other than by legal deposit. However, the library staff confirms your requests before and after copying to prevent copyright infringement.

Q10. Can I get copies by fax?

Although Article 31 allows libraries to reproduce materials without obtaining the permission of the copyright holder, **it does not permit them to send the copies by fax or electronically.** To receive copies by fax, you have to obtain the permission of the copyright holder, who has the exclusive right to make the public transmission as stipulated in Article 23.

Copyright Law

(Reproduction in libraries, etc.)

Article 31. It shall be permissible to reproduce a work included in library materials ("library materials" in this Article means books, documents and other materials held in the collection of libraries, etc.) within the scope of the non-profit-making activities of libraries, etc. ("libraries, etc." in this Article means libraries and other establishments, designated by Cabinet Order, having the purpose, among others, to offer library materials for the use by the public) in the following cases:

- (i) where, at the request of a user and for the purpose of his own investigation or research, he is furnished with a single copy of a part of a work already made public or of all of an individual work reproduced in a periodical already published for a considerable period of time;

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*English translation of the copyright law is cited from the Copyright Research and Information Center (CRIC) website (http://www.cric.or.jp/cric_e/clj/clj.html)