



Australian Society of Authors

ASA Guidelines to Permissions

ASA Minimum recommended rates for permission to use material for republication

Do you need to seek permission to use material?

Writers frequently refer to, extract and quote from other sources in their course of their writing.

Sometimes, perhaps as a result of obtaining information from other jurisdictions such as the United States, a writer may assume he or she has the right of fair use of other's material if the original work is acknowledged and only a small number of words are quoted.

However, under the terms of the *Australian Copyright Act 1968*, a writer needs to seek permission from the original copyright holder to use any material he or she has quoted, regardless of the length or purpose for the quote or extract, unless the work is not in copyright (seventy years after the death of the creator or the date of first publication, whatever comes last) or unless specific exceptions are in place.

These exceptions are:

- fair dealing for criticism or review;
- fair dealing for research and study; and
- reporting news.

These exceptions are described in full by the Australian Copyright Council on its website (www.copyright.org.au) in the information sheet G034 "Quotes & Extracts: Copyright obligations". The exceptions are quite specific. Writers of commercial publications will rarely be able to rely on them.

A writer may reproduce an extract from a book (acknowledging the work and its writer) in a newspaper review provided the writer's use is fair and is genuinely for the purpose of criticism or review. In court, the terms "criticism" and "review" have had the *Macquarie Dictionary* definitions applied to them.

As to research and study, a writer may reproduce a quote or extract in an essay or thesis written as part of a course of study, again acknowledging the work and its writer. However, if the work is to be published, either it needs to satisfy the conditions for fair dealing for criticism or review, or permission for use of the quote or extract needs to be sought since the use of the quote or extract is no longer research or study.

When reporting news, a writer may use a work or part of a work, provided the dealing is fair and the work and its writer are identified. Courts have defined "news" again referring to the *Macquarie Dictionary* definition. "News" need not necessarily be restricted to current events and could relate to long-term reviews or commentary.

Are you responsible for obtaining and paying for permissions?

The responsibility and cost of obtaining permissions is generally covered in a publishing agreement.

For writers whose work is being published, the ASA has three recommendations about the cost of permissions:

- i. The publisher bears the cost
- ii. The cost is borne equally by the author and publisher
- iii. The cost is borne by the publisher up to a maximum preset amount then by the author

How do you work out a cost or charge for permissions?

The formula for the calculation of rates set out below is meant as a guide for the calculation of minimum rates only. It is designed for use by both those paying for permissions and those charging for use of their own material, such as an excerpt or a verse or a quotation, not covered in the ASA's other recommended rates. The ASA elsewhere publishes rates for poetry and prose anthologies and for illustrations.

In the preparation of this guide to the calculation of minimum rates for permission payments the ASA has taken into account the fact that writers using the work of others should be prepared to pay for that use, but at the same time has remained cognisant that this work generally has been published previously and the original writer has received payment for this previous use. Hence, these rates attempt to set out an equitable means of remuneration for secondary use of original material. The original writer and source of this material must always be acknowledged. These rates are only proposed for books published for sale within the Australian territory; however, they may serve as a basis for the calculation of fees for books published in other territories as well.

(Words requested/total book word count) x (RRP inc. GST/royalty rate) x print run = permissions fee

Examples: $(400/100,000) \times (\$25/10) \times 4000 = \40

$(500/75,000) \times (\$29.95/10) \times 5000 = \99.73

GST of 10% would be required to be added for transactions in Australia.

If the royalty rate is not known, assume it to be 10% of the recommended retail price. The fee should be payable again for further print runs.

What should you give permission for?

Any permissions agreement for use of material should be a non-exclusive licence for print publication of one edition with a defined print run. The terms of the agreement should not require the original author to waive any other rights, such as the right to payment for reprographic reproduction (photocopying, often referred to as "CAL payments"), moral rights or digital rights.



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