

Intellectual Property and Copyright



Policy P11

Table of Contents

Purpose	3
Scope	3
Definitions	3
Overview of policy and practice	5
Policy statement.....	5
Moral rights	6
Fair dealing	6
Responsibility	7
Candidates	7
Executive Officer.....	7
Authors	8
Candidate non-compliance	9
IP and Copyright Officer	9
Key contact.....	10
Legislative context.....	10
Associated documents	10
Version	11

Purpose

The purpose of this policy and accompanying information is to:

- ❖ ensure that Institute of Internal Auditors-Australia (IIA-Australia) Intellectual Property is identified and managed appropriately
- ❖ promote copyright compliance in both the academic and non-academic activities of the IIA-Australia by ensuring that all staff, contractors, volunteers and candidates are made aware of their obligations when using copyrighted material in any format whether by copying, reproducing, communicating, playing, recording or performing
- ❖ assist staff, contractors, volunteers and candidates to make full legal use of the materials at their disposal
- ❖ limit any risk to the IIA-Australia associated with the use of copyrighted materials.

Scope

This policy applies to staff, contractors, volunteers and candidates at IIA-Australia, and relates to all IIA-Australia approved and/or sponsored activities.

Definitions

P11.1	Intellectual Property	Intellectual Property means all statutory and other property rights (including rights to require information to be kept confidential) protected by Australian law and international agreements applying to Australia as amended from time to time.
P11.2	Statutory intellectual property	<p>Relevant laws are:</p> <ul style="list-style-type: none"> ❖ Patents Act, 1990, which deals with patents granted for inventions. ❖ Copyright Act, 1968, which deals with copyright in literary works (including computer programs), dramatic works, musical works, artistic works (including architectural drawings), films, sound recordings, broadcasts, published editions and certain types of performances. In addition, the Copyright Act confers moral rights on creators of certain works and other subject matters and creates a range of rights over the distribution of information in electronic form. ❖ Designs Act 2003, which deals with design features of products. ❖ Trade Marks Act, 1995, which deals with trademarks.

P11.3	Confidential information and trade secrets	<p>The general law protects confidential information and trade secrets. This includes, but is not limited to:</p> <ul style="list-style-type: none"> ❖ commercially sensitive information such as confidential reports on an invention or discovery, before the filing of a patent application ❖ research materials and data ❖ the contents of a patent application up to the time that a patent is granted ❖ new commercial valuable knowledge which is intentionally omitted from a patent application, and never becomes protected by the grant of a patent, for example, to minimise the prospect of reverse engineering ❖ information marked confidential, and ❖ trade secrets.
P11.4	Commercialise/ commercialisation	<p>In relation to Intellectual Property means to make, sell, copy, adapt, apply, publish, develop, use, assign, license, sub-license, franchise or otherwise utilise the Intellectual Property for the purpose of generating financial or other commercial gains. 'Commercialisable' shall be similarly construed.</p> <p>The use of course and educational materials by the IIA-Australia for the purposes of teaching and research in its programs, whether in Australia or overseas, does not constitute commercialisation of the Intellectual Property, notwithstanding IIA-Australia may receive returns from such use.</p>
P11.5	First party copyright material	<p>First party copyright material refers to any material created by IIA-Australia staff, contractors and volunteers as part of their employment in which copyright has not been transferred or exclusively licensed to a third party.</p>
P11.6	Third party copyright material	<p>Third party copyright material includes both licensed and unlicensed third party copyright material (see definitions below).</p>
P11.7	Licensed third party copyright material	<p>Any copyright protected material for which the terms of use are governed by a licence or any other form of agreement (eg, IIA-Australia holds licences for IIA Global for IPPF) and from the Copyright Agency as required.</p>
P11.8	Unlicensed third party copyright material	<p>Any copyright material not governed by an agreement between the copyright owner and the user. This includes material copied in reliance upon Parts VA or VB of the Copyright Act of 1968.</p>

Overview of policy and practice

<p>Intellectual Property owned by IIA-Australia</p>	<ul style="list-style-type: none"> •IP owned by IIA-Australia for all work developed by staff, volunteers and contractors when working on behalf of the IIA-Australia (unless specific exemption exists) •All 'contracts' to specify ownership of IP by IIA-Australia & to be recorded on contracts register •Authors have completed the IIA-Australia check list & declaration •This material is First Party Copyright material
<p>Licensed third party copyright material</p>	<ul style="list-style-type: none"> •IIA-Australia holds a license or has a signed agreement to use the material – refer to IIA-Australia standard 'Deed Poll' Copyright assignment & Moral rights consent and waiver •The license or agreement is logged in IIA-Australia 3rd party copyright material register
<p>Unlicensed third party copyright material</p>	<ul style="list-style-type: none"> •IIA-Australia staff, volunteers, contractors and candidates can not use this material unless it comes under the Fair Dealing provisions
<p>Fair Dealing</p>	<ul style="list-style-type: none"> •Candidates are able to reproduce without permission provided that dealing is for research or study for OWN USE i.e. not for others
<p>Moral Rights</p>	<ul style="list-style-type: none"> •Any material developed by or for IIA-Australia must comply with Moral Rights unless a signed 'Deed Poll' Copyright assignment & Moral rights consent and waiver is held •The author must be correctly acknowledged and the work should not be treated in any way that will be derogatory

Policy statement

Unless otherwise agreed, the IIA-Australia asserts ownership of all Intellectual Property created or developed by staff, volunteers, and contractors unless specifically exempted from this policy.

IIA-Australia is committed to ensuring compliance to copyright legislation in all areas of activity which relate to third party copyright material.

The Copyright Act of 1968 and subsequent amendments and regulations such as the Copyright Amendment (Digital Agenda) Act 2001 and Copyright Amendment (Moral Rights) Act 2000 aim to balance competing interests of community access to copyright materials with the right of creators to earn a living from their work.

Copyright holders, therefore, have specific rights that are protected by legislation.

These rights include, but are not limited to, the right to reproduce, the right to publish, the right to perform a work in public, the right to communicate the work to the public and the right to make an adaptation of the work.

There are also other specific rights for specific formats such as the right to make a copy of a sound recording or the right to cause the visual images of a film to be seen in public.

Moral rights

Whenever another person's Intellectual Property is used, users must also ensure that they comply with moral rights legislation that is also part of the Copyright Act. This means that the author must be correctly acknowledged and that the work should not be treated in any way that will be derogatory to it or to the reputation of its creator.

Any material developed by, or for, IIA-Australia must comply with moral rights unless a Deed Poll waiver is held.

Fair dealing

Candidates are able to reproduce copyright material without permission provided that the dealing is for research or study and that the copying is 'fair'. Fair dealing applies to work copied by an individual for their own use. Fair dealing provisions cannot be used to copy material for others (eg, by a lecturer for an individual student or class). Section 40 of the Act deems 'fair' to mean:

- ❖ an article in a periodical publication (eg, a journal article)
- ❖ more than one article in the same edition of a periodical if on the same subject matter, or
- ❖ a reasonable portion, which is generally 10% or one chapter if the work is a published edition of 10 pages or more; or 10% of the words if in electronic form.

In the case of audio visual (AV) items, the s 103C of the Copyright Act requires the following factors to be considered:

- ❖ the purpose and character of the dealing
- ❖ the nature of the AV item
- ❖ the possibility of obtaining the AV item within a reasonable time at an ordinary commercial price
- ❖ the effect of the dealing upon the potential market for, or value of, the AV item.

In a case where part only of the AV item is copied, the amount and substantiality of the part copied is taken in relation to the whole item.

The Copyright Act of 1968 does not provide any guidance as to the proportion which might be considered fair, so considerable care and consideration should be taken when copying AV items.

Responsibility

It is the responsibility of all staff, contractors, volunteers and candidates to make themselves aware of their obligations in relation to Intellectual Property and copyright by:

- ❖ reading this IIA-Australia Intellectual Property and Copyright policy available on the IIA-Australia website
- ❖ reading the GradCertIA Course Handbook, which candidates receive on enrolment
- ❖ taking note of copyright notices on or near equipment that can be used for reproduction or playing
- ❖ attending copyright training sessions offered by the Copyright Council
- ❖ consulting with the IIA-Australia Executive Officer (who has Governance responsibilities).

Candidates

Candidates are entirely responsible for any copyright infringement resulting from their actions.

Note that s 135ZN–ZT of the Act allows for the reproduction of certain materials for people with print and intellectual disabilities.

Under Policy P1: Candidate Plagiarism, candidates are required to declare (using Form F6: Candidate Declaration Plagiarism) that any submission is their own by attaching a cover sheet to all assignments submitted:

"I certify that I have read and understood the IIA-Australia Policies P1: Candidate Plagiarism and P14: Code of Academic Conduct. I certify that this assignment is my own work and is free from plagiarism. I understand that this assignment may be checked for plagiarism by electronic or other means. The assignment has not previously been submitted for assessment in any other modules in this course or at any other institutions."

Signed and dated.

Executive Officer

The Executive Officer is responsible for the Intellectual Property and copyright compliance of all third party copyright material developed and supplied to candidates, including the following.

Material development

- ❖ Ensuring that IIA-Australia holds Intellectual Property via contract or other binding forms—any exemptions are to be approved by the CEO.
- ❖ Ensuring that the 'contracts for services' cover obligations for compliance with copyright laws.
- ❖ Ensuring the author sign the IIA-Australia 'Author check-list and declaration' when submitting material.
- ❖ Ensuring that IIA-Australia 'Deed Poll copyright assignment and moral rights consent and waiver' are signed and registered in the IIA-Australia third party material register.

Printed course material

Ensuring that all course material supplied to candidates include the following:

- ❖ course name, year and module number
- ❖ full bibliographic details, including page numbers, for each item of third party copyright material reproduced in the pack
- ❖ appropriate copyright notice.

Online course material

Third party copyright materials used in online courses should be recorded on the IIA-Australia Third Party Copyright Register. Any material that is transmitted in any other electronic format, including email, should also be registered.

Candidate material

Candidate material is generally protected by copyright. The IIA-Australia will keep adequate documentary proof of candidates' permission if they use their material.

Copyright compliance

The Module Learning Pack and handouts (in print or digital form) must be signed off by the Executive Officer upon a recommendation from a designated member of the Academic Standards and Quality Committee before being distributed

All third party copyright digital or electronic material (print or audio visual) which is provided for candidates to access must be logged on the IIA-Australia Third Party Copyright Register.

CAL licence

The Executive Officer is responsible for maintaining the appropriate Copyright Agency Limited (CAL) licence.

In addition, the Executive Officer is responsible for:

- ❖ maintaining the Third Party Copyright Register of licences and agreements, which accurately records the arrangements in place for use of the third party material
- ❖ management of audits required by the Copyright Office

Authors

Authors are required to provide a signed 'Authors Check-list and Declaration' for all material developed.

Candidate non-compliance


Any non-complying activities will be brought to the attention of those responsible. Failure to take appropriate action will be brought to the attention of the Candidate Conduct and Appeals Committee and may result in disciplinary action (refer to Policy P14: Code of Academic Conduct and Policy P4: Candidate Grievance).

IP and Copyright Officer

The executive officer of IIA-Australia is responsible for IP and Copyright within the organisation.

The IP & Copyright Officer will ensure that:

- clear guidelines on photocopying rights for staff and candidates are communicated through the staff induction and Candidate Course Handbook
- access to photocopying is controlled through the mandatory use of an 'access code'
- the following notice is visible in all appropriate locations



**COMMONWEALTH OF AUSTRALIA
Copyright Regulations 1969 WARNING**

 The Institute of
Internal Auditors
Australia

IT IS IIA-AUSTRALIA POLICY FOR ALL EMPLOYEES VOLUNTEERS AND CONTRACTORS TO COMPLY WITH COPYRIGHT LEGISLATION (Refer IIA-Australia Policy No 11)

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. Certain dealings with copyright will not constitute an infringement, including:

- a reproduction that is a fair dealing under the Copyright Act 1968 (the Act), including a fair dealing for the purposes of research or study; or
- a reproduction that is authorised by the copyright owner (These are recorded in the IIA Australia Third party copyright material register held by the Executive Officer)

It is a fair dealing to make a reproduction for the purposes of research or study, of one or more articles on the same subject in a periodical publication, or, in the case of any other work, of a reasonable portion of a work.

In the case of a published work in hardcopy form that is not less than 10 pages and is not an artistic work, 10% of the number of pages, or one chapter, is a reasonable portion.

In the case of a published work in electronic form only, a reasonable portion is not more than, in the aggregate, 10% of the number of words in the work.

More extensive reproduction may constitute fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in subsection 40(2) of the Act.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.

FOR MORE INFORMATION PLEASE CONTACT THE IIA-AUSTRALIA EXECUTIVE OFFICER: Julie Young

voice of the profession

Key contact

If you require further information or advice please contact:

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Legislative context

- ❖ Copyright Amendment (Moral Rights) Act 2000
- ❖ Copyright Act 1968 (Cth)
- ❖ Trade Marks Act 1995 (Cth)
- ❖ Patents Act 1990 (Cth)
- ❖ Designs Act 2003 (Cth)
- ❖ Higher Education Standards Framework (Threshold Standards) 2015

Associated documents

- ❖ IIA-Australia standard contract (content development)
- ❖ IIA-Australia Deed Poll 'Copyright Assignment and Moral Rights consent and waiver'
- ❖ IIA-Australia Authors Check-list and Declaration
- ❖ IIA-Australia – Third Party Copyright Register
- ❖ Form F6: Candidate Declaration Plagiarism
- ❖ Graduate Certificate in Internal Auditing Course Handbook
- ❖ IIA-Website

Version

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