

Copy Right Policy


Tompi Seleka College of Agriculture

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Recommended by:



Head of Department

(Maisela, RJ)

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Date

Approved by:



Hon MEC for Agriculture and Rural Development

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Date

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1. Acronyms and abbreviations

DAFF	Department of Agriculture, Fisheries and Forestry
DALRO	Dramatic, Artistic and Literary Rights Organisation
FET	Further Education and Training
HOD	Head of Department
LDARD	Limpopo Department of Agriculture and Rural Development
MEC	Member of Executive Council
RRO	Reproduction Rights Organisation



2. Executive summary

This Copy Right Policy takes a detailed look into what copy right is, which works are protected by copy rights, what the importance of copy right is, all legitimate exemptions from copy right (for educational purposes), reproduction limitations as well as the role of librarians and lecturers with regards to copy right.

3. Introduction

The Institutional Libraries Policy on Copy right is determined by the Copy Right Act (Act 98 of 1978) and its subsequent amendments. It ensures that the College and its entire community remains copy right compliant at all times in terms of the Act. A blanket license agreement enables the photocopying of extracts by the College community, while imposing limits on the number of copies to be made.

The College reserves the right to refuse copying if it will (in the opinion of the Head of Copy right, Copy right Officer or the person in charge of the photocopying machines), result in the violation of the Copy Right Act or the terms of the blanket licence. The College is therefore committed to honour the rights of the authors, publishers and vendors and to pay royalties. It is also worth noting that South Africa (as a signatory of the Berne Convention) is obliged to give recognition and protection to copy right works from other countries as well.

Due to the national directive that Colleges of Agriculture should take the approved Norms and Standards for Agricultural Training Institutes into consideration when developing Policies, alignment to these Norms and Standards has been applied to this Policy.

4. Purpose and objectives

The purpose of this Copy Right Policy is to ensure that the Tompi Seleka College of Agriculture and its entire community remains copy right compliant at all times in terms of the Copy right act.

5. Authority

This Copy Right Policy for Tompi Seleka College of Agriculture is issued under the custodianship of the Hon Member of the Executive Council (MEC) for Agriculture and Rural Development in Limpopo and the Head of Department (HOD) as Accounting Officer of the Limpopo Department of Agriculture and Rural Development (LDARD).

6. Legal framework

- Constitution of the Republic of South Africa, 1996
- Green Paper on Agricultural Training Institutes
- Copy Right Act of 1978 (and subsequent amendments to the Act)
- Research Policy

7. Scope of application

The Copy Right Policy is applicable to:

- i) All employees at the College (both academic and domestic employees)
- ii) All students (irrespective of the course for which they are enrolled)
- iii) All researchers at the College
- iv) All persons visiting the College (in whatever capacity)

The stipulations of this Policy is valid at all times (including semester times and holidays.)

8. Definitions

Students:	For the purpose of this Policy, a student is any individual enrolled in a course of study at Tompi Seleka College of Agriculture.
Department:	For the purpose of this Policy, department refers to the Limpopo Department of Agriculture and Rural Development.
Principal:	Means Head of the College of Agriculture
College:	Tompi Seleka College of Agriculture
Employees:	Persons employed at the College
College of Agriculture:	For the purpose of this policy, College of Agriculture (to replace Agricultural Training Institute) will be used until such time when the approved Norms and Standards document for Agricultural Training Institutes is fully implemented.

9. Policy Pronouncements

9.1 DALRO

The Dramatic, Artistic and Literary Rights Organisation (DALRO) was conceived as a multi-purpose copy right society to act on behalf of authors, artists and publishers in South Africa by administering a broad spectrum of copy rights in literary, dramatic and artistic works. Through its international affiliations and its bilateral agreements with foreign societies, authors and publishers, DALRO currently administers public performance right, broadcast rights and reprographic reproduction right in published works.

9.2 Blanket licence

This refer to a "comprehensive authorization granted by the licensee". (E.g. The College to copy from published editions under the control of the Reproduction Rights Organisation – within certain limits.)

The blanket licence offers far greater flexibility and is administratively less burdensome. Not only does it allow relatively unencumbered reproduction, but is also indemnifies the College against prosecution by rights' owners (by shifting the burden of defending and/or setting any copy right claim by a third party from the licence to the RRO – provided that the licensee had not extended the rights granted under the blanket licence.)

9.3 What is copy right?

Copy right is the exclusive right, granted by the Law, to the author of an original work to control the use of his/her work by others. It includes the right to control the making of copies as well as the publication and adaptation of the work. In terms of the Copy Right Act (Act 98 of 1978), copying of anything protected by copy right without permission of the copy right owner, is regarded as an infringement of the law.

9.4 Why copy right?

Higher Education Institutions, are facing an increasing number of issues in an attempt to comply with the copy right law and also maintain an atmosphere that promotes learning and academic freedom. Lecturers, students and various support services staff, are confronted by the Copy right act (and the regulations which govern the use of copy right protected works) every day.

Increasing pressure is now applied to ensure more effective control on the reproduction of copy right protected works on campuses. Publishers are concerned about copy right infringements as it can affect academic book sales and the viability of publishers and vendors. The College prohibits unauthorised photocopying by its staff and students and consequently minimises the chances of claims for damages or even criminal prosecution against the institute.

9.5 Copy right protected works

The protected works (works eligible for copy right) are listed in Section 2(1) of the Act as follows:

- i) Library works, e.g. novels, short stories, textbooks, biographies, articles, encyclopaedias, dictionaries, reports, etc.
- ii) Musical works.
- iii) Artistic works, e.g. paintings, sculptures, architectural work, diagrams, maps and charts, photographs, etc.
- iv) Cinematograph films.
- v) Sound recordings.
- vi) Broadcasts.
- vii) Programme-carrying signals.
- viii) Published editors.
- ix) Computer programmes.

9.6 What is fair use or reasonable portion?

The Act allows one to reproduce a substantial portion of the work but not unreasonably much for the purpose of research, private study or personal use. This entails photocopying:

- i) A complete chapter from a book, or 10% of a book (whichever is the greatest).
- ii) A complete article from a serial publication.
- iii) A complete short story or poem from a collection or anthology of stories or poetry.
- iv) In the case of a published report of judicial proceedings, the entire report.

Under certain circumstances (and subject to certain conditions), it is possible for lecturers, students and librarians to make copies of copy right protected works. Within these limits, specific permission from the copy right holder is not required.

9.7 Legitimate exemption for education purposes

A) Students and researchers

Section 12 (1) of the Act allows the making of a single copy of a reasonable portion of a work consistent with fair dealing for the purpose of research, private study or personal use.

A student/researcher may thus make a single copy for the purpose of research or private study provided that:

- i) The use is reasonable; copying the entire work or a very large portion of work is regarded as unreasonable.
- ii) The copy is made by the student/researcher himself/herself.
- iii) One does not disseminate the copy or make the copy available to anyone else.

B) Librarians

Librarians may copy an article from a journal or anthology or a reasonable portion from any other work and may make a single copy available upon request to:

- i) An individual for the exclusive purpose of private study or the use of the individual who has requested the work.
- ii) A lecturer for research, teaching or in preparation for teaching a class.
- iii) Replace an original work in the library collection that has been damaged/lost/stolen.

These concessions all carry conditions, namely:

- a) The single copy made for the user, must become the property of that user.
- b) The library may not make a commercial gain from such a transaction.
- c) The reproduction must bear a "copy right warning" - which must also be displayed prominently as a notice near all unsupervised photocopying equipment.
- d) Before copying a work for its own collection, the library must first have made a reasonable effort to buy an original copy at a fair price.

C) Lecturers

Section 12 (4) of the Act allow a work to be used without permission for learning purposes provided that the use is reasonable and that the name of the author and/or source is acknowledged.

A lecturer may do the following – subject to certain reproduction limitations:

- i) Make a single copy of a reasonable portion of a work for research purposes or in preparation for teaching.
- ii) Make multiple copies of a reasonable portion of a work for classroom use, on condition that:
Only one copy per student per course is made by (or for the lecturer) and is exclusively in the classroom or for class discussions. (This includes comprehension exercises and poetry analysis.)

9.8 Reproduction limitations

The reproduction of the works described above, is limited to:

- i) The reproduction of no more than one short poem, article, short story or essay or two extracts by the same author or no more than three short poems, articles, short stories or essays from the same anthology or collection of journals.
- ii) There should be no more than 9 instances of such multiple copying for one course of instruction to a particular class during any one term.
- iii) The reproduction may not clash with the normal use of the work to the extent of constituting any unreasonable prejudice to the legal interests and vested rights of the author or copy right holder.
- iv) Copies made should not be used to create or replace or substitute anthologies, compilations or collective works.
- v) Copies made should not be used as a substitute for the purchase of books, reprint editions and periodicals.
- vi) No copies may be reproduced from works which are intended to be ephemeral in nature (i.e. works designed to be relevant for a short time only.)
- vii) The same lecturer should not repeat copying in respect of the same material from term to term.

9.9 Violation of copy right/copy right infringement

Anyone who performs the actions which may legally only be performed by the copy right holder (without permission from him/her) is in violation of copy right.

Copy right is therefore violated if any of the following actions are performed without permission from the copy right holder:

- i) The translation of a literary work or its reproduction, whether in the form of a film or copies or printouts.
- ii) Whether the work is retyped or redrawn and then multiplied.

9.10 End user responsibility

While the College provides the facilities and equipment to photocopy, the onus is on the end user to ensure that he//she does not infringe the Copy Right Act.

9.11 Reporting

Respective reporting is required in order to provide DALRO with the information to distribute the royalties collected to the copy right holders. One is required to use the DALRO reporting forms to record the copying of Course Packs, as well as copied material placed in the library's short loan/reserve shelf collection.

The same forms are also used for transient electric copies, i.e. when an extract or article is scanned into a computer and transmitted to students at a distant location.

9. 12 Monitoring and Evaluation

Monitoring and evaluation as well as advocacy of this Copt Right Policy should be conducted by the College itself.

9.13 Dispute resolution

Any disputes in relation to this Copy Right Policy, its application and the implementation shall be managed in line with the College's dispute resolution and grievance mechanisms.

10.Default

This Copy Right Policy is issued under the custodianship of the Hon MEC and HOD of the LDARD and therefore no deviation from this Policy will be allowed – unless permitted in writing by the HOD of the Department.

11. Inception date

The date of inception of this Policy, is the date of approval (as indicated on the cover of this Policy document).

12 Termination and review

This Policy will be reviewed every three years (or as and when a need arise) and may be replaced by a transversal Policy presented by Department of Agriculture, Forestry and Fisheries (DAFF) at any time.


Should the Policy still be in the review process by the time it lapses, an extension period is applicable and the approved Policy remain valid until the reviewed version is approved.

13 Enquiries and reporting

All enquiries regarding this Copt Right Policy, should be directed towards: Tompi Seleka College of Agriculture at 013 264 5300.

The specific College of Agriculture is responsible for the timeous review, circulation, advocacy, availability and feed-back regarding this policy document. The specific College of Agriculture is responsible for reporting towards oversight bodies in the event of enquiries with regards to this policy document.

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