



ACCESSIBILITY:

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Exceptions under the Copyright Act for Persons with a “Perceptual Disability”

An exception permits the use of a work protected by copyright without the consent of the copyright owner and without the payment of royalties. Copyright laws all over the world aim for a balance between (a) the rights of creators to be paid for and to control the use of their works and (b) the needs of users who want access to material protected by copyright. This balance is created by providing creators with legal “rights” and then limiting those rights through “exceptions” for the benefit of certain users. Persons with a “perceptual disability” is one of those user groups. Section 32 provides persons with a “perceptual disability” with an exception permitting certain activities, which may be undertaken without infringing copyright.

Persons with a “perceptual disability” as a category of beneficiary is defined in section 2:

- “Perceptual disability” means a disability that prevents or inhibits a person from reading or hearing a literary, dramatic, musical or artistic work in its original format, and includes such a disability resulting from (a) severe or total impairment of sight or hearing or the inability to focus or move one’s eyes; (b) the inability to hold or manipulate a book; (c) an impairment relating to comprehension.
- Section 32 has been updated and provides that “it is not an infringement of copyright for a person with a perceptual disability, for a person acting at the request of such a person, or a non-profit organization acting for the benefit of such a person to make a copy of a dramatic, musical or literary work made in certain alternate formats, such as Braille and talking books; translate, adapt or reproduce a literary or dramatic work (except a cinematographic work) in sign language;
 - Publicly perform a literary or dramatic work (except a cinematographic work) either live or in a format specially designed for persons with a perceptual disability

This exception only applies if the alternate format is not already “commercially available”. “Commercially available” is defined (in section 2 and subsection 32(3)) as meaning available on the Canadian market within a reasonable time, for a reasonable price and with reasonable effort.

This information is to be considered solely as a guide and should not be quoted as, or considered to be, a legal authority. It may become obsolete without notice. Authority must be found in the Copyright Act, the Copyright Regulations and in the decisions of the Courts interpreting them.”

Note: The exception to make a copy for one student is transactional, i.e. the copy is made for that student, and must be erased after that student has finished using it. If you wish to keep the copy, you must contact the publisher, and get permission in writing to keep the work in an alternate format, e.g. Braille, digital, sound, etc.