

HU Copyright Regulations

These Copyright Regulations will come into force in 2023 after adoption by the Executive Board.

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HU Copyright Regulations

HU Copyright Regulations

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HU Copyright Regulations

1 Introduction

The HU has had a set of regulations on copyright enforcement since 1997 (*Handhaving Auteursrechten*). These regulations were subsequently updated several times as *Auteursrechtenregeling HU* (HU Copyright Regulations). The main consideration is that copyright - as part of intellectual property law - plays an increasingly important role in education.

Both natural persons (individual authors) as well as legal entities can play a role within the meaning of the *Auteurswet* (Copyright Act). For HU University of Applied Sciences Utrecht, this means that only the legal entity Hogeschool Utrecht Foundation, represented by the Executive Board, can be held liable for violations and is responsible for enforcing the statutory regulations.

The implementation of regulations can be assigned to organisational units. At all times, however, the ultimate legal responsibility remains with the Executive Board. The signing of an agreement takes place via (sub)mandate granted by the person authorised to sign such an agreement, as described in the *Bestuurs- en Beheersreglement* (Management and Governance Regulations), such as the Executive Board, the Institute director or the Research Centre director.

These regulations, based on the law, the Collective Labour Agreement for Higher Professional Education and previous HU Copyright Regulations, have been updated to reflect changed legislation and developments in digitalisation. An important change in the law is the *Auteurscontractenrecht* (Copyright Contract Law) that came into force from 1 July 2015. This regulation also uses as a starting point the agreement between the Netherlands Association of Universities of Applied Sciences and the *Stichting Uitgeversorganisatie voor Onderwijslicenties* (*Stichting UvO*; the Educational Licensing Organisation), i.e. the Easy Access Regulations (EAR).

Differences between the 2022 Copyright Regulations vs. the 2017 Copyright Regulations:

- updated Copyright Act terminology;
- adjusted organisations involved in higher professional education reader regulations/Easy Access regulations;
- AIP 1st line advice and support, 2nd line JZ: OO&S supports and advises;
- shortened the section on plagiarism and now refers to the appropriate rule in the Education and Examination Regulations;
- introduced the terms Open Access and Creative Commons;
- defined *digital learning environment*;
- added HU caveat for concluding agreements with a publisher;
- noted the importance of agreements with Non-Employed Staff.

More information on copyright can be found at the *Auteursrechteninformatiepunt* (AIP; Copyright Information Point): <https://www.auteursrecht.hu.nl/>.

2 COPYRIGHT REGULATIONS - COPYRIGHT AT HU UNIVERSITY OF APPLIED SCIENCES UTRECHT

2.1 Definition of Copyright

- a) Copyright means the exclusive right of the creator of a literary, scientific or artistic work, or his successors in title, to publish and reproduce it, subject to the restrictions laid down by law. (Article 1 of the *Auteurswet* (Copyright Act))

The *Auteurswet* 1912 (the Copyright Act; hereinafter the Act) lists many and varied things that fall under work, including books, newspapers, magazines, films, video, photographs, drawings, plays, and music. All work of original character is protected by copyright.

- b) From the creation of the work, copyright applies. This gives the creator the following rights, among others:
 - a. deciding on publication and reproduction of the work;
 - b. deciding on making (digital) copies, edits, movie adaptations and translations;
 - c. receiving compensation for inclusion of parts in educational publications;
 - d. receiving compensation for (legally) permitted copying;
 - e. deciding on changes to the work.

The actual creator is not necessarily the *legal* creator i.e. the copyright owner of the work. It often happens that the actual creator is employed to create the work; the employer or client is then the legal creator (see Paragraph 4.1 and 4.6). Copyright ends 70 years after the death of the creator, or - if an institution is the legal creator - 70 years after the date of publication.

- c) In addition, these regulations also address related rights protected separately by other laws or regulations, refer to 3.6.
- d) Other terms

Creative Commons (CC) licences	Creative Commons licences are a coherent set of various usage rights under which the copyright holder can make a work available.
EAR	Easy Access Regulations: Successor to the reader regulations. The EAR is a buyout scheme through which re-use of copyrighted material is bought out under certain conditions (refer to Paragraph 3.3).
Embedding	Displaying other people's work directly from the original source, via a window on a web page.
Digital learning environment	Digital learning environment, also DL(W)O (digital learning (working) environment), SharePoint and other platforms where lecturers share materials for the purpose of education.
Linking	Referring to online material.
Educational exception	Exceptions in the law for funded education.
Plagiarism	Making unauthorised use of someone else's material in your own work.
Personality rights	Moral rights of the creator (Article 25 of the <i>Auteurswet</i> (Copyright Act)).
Reader	Collection of texts, which can be on paper or digital.
Streaming	Online distribution of media (video, audio).

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2.2 Scope

The regulations contain rules to protect the rights of:

- a. third parties, stakeholders outside of the HU;
- b. employees and staff not employed by the HU (*personeel niet in loondienst*; PNIL);
- c. students;
- d. the legal entity Hogeschool Utrecht Foundation.

2.3 Principles

The basic principles of these regulations are the *Auteurswet* (Copyright Act), the agreement between the Netherlands Association of Universities of Applied Sciences and the *Stichting UvO* (UvO Foundation) and the Collective Labour Agreement for Higher Professional Education.

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3 THE PROTECTION OF THIRD PARTIES, STAKEHOLDERS OUTSIDE OF THE HU UNIVERSITY OF APPLIED SCIENCES UTRECHT

3.1 Copying for Own Use

Staff and students of the HU are allowed to make a limited number of copies for their **own training, studies or use**, without permission or remuneration being required. Here, there is no distinction between copies on paper or digital copies. Please note: *own use* means storage in a place only the user can access. Copying entire works is prohibited unless they are sold-out, out-of-print works. Short articles from newspapers or magazines may be copied in their entirety for own use. The person for whose own use the copy is intended may also commission a copy.

3.2 Use for Clarification in Education

The Netherlands Association of Universities of Applied Sciences has concluded several agreements with representatives of rightholders, allowing the use of portions of lawfully published works solely for the purpose of clarification in education under certain conditions, including listing sources.

3.3 Readers and Inclusion in ELO and EAR

If inclusion in a reader or digital text(s) applies, this is regulated for education through the so-called Easy Access Regulations (EAR). This agreement between the *Stichting UvO* (UvO Foundation) and the Netherlands Association of Universities of Applied Sciences envisages reasonable compensation to the stakeholder(s) through a buyout scheme. Specifically, lecturers at universities of applied sciences may copy up to and including 50 pages from a work, provided that it is no more than 25% of the original work. They are also allowed to use a maximum of 50 images in presentations. This regulation made the re-use of copyrighted material within institutions for higher professional education more accessible. For more information, refer to the Easy Access Regulations infographic below:

UITGEVERSORGANISATIE VOOR ONDERWIJLSLICENTIES
Voor meer informatie zie www.stichting-uvoo.nl

Easy access-regeling (hbo) auteursrecht aan uw hogeschool

Uw hogeschool maakt gebruik van de Easy Access-regeling (HBO) van UvO. Met deze afkoop-regeling is het (her)gebruik van auteursrechtelijk beschermd materiaal eenvoudiger dan ooit. Lees hier alle voorwaarden.
Auteursrecht goed geregeld. Wel zo eerlijk.

- Tot en met 50 pagina's**
50 U kunt publicaties (hoofdstukken, artikelen uit tijdschriften, etc.) om 50 pagina's vrij gebruiken in uw onderwijs. Voorwaarde is dat dit niet meer dan 25% van de oorspronkelijke publicatie is.
- Hoeveel afbeeldingen?**
U mag maximaal 50 afbeeldingen in presentaties gebruiken (PowerPoint, Prezi, e.d.). Daarnaast zijn er twee voorwaarden: maximaal 10 werken van dezelfde maker gebruiken en niet meer dan 25 afbeeldingen uit hetzelfde werk.
- Papier én digitaal**
I hoe het materiaal beschikbaar wordt gesteld is niet van belang. Papieren readers of elektronische leeromgevingen (zoals Teams of Blackboard); dit kan allemaal.
- Voor al uw studenten**
U mag de content aanbieden aan alle studenten die uw vak volgen.
- > 50 pagina's?**
> 50 Meer dan 50 pagina's - of meer dan 25% van het werk - gebruiken? Dat kan ook. Informeer bij het Auteursrechten Informatiepunt aan uw hogeschool.
- Eenvoudig**
Geen naheffingen of boetes!

Vuistregels:
- Vermeld altijd de bron
- Direct inkten heeft de voorkeur
- Open Access content is altijd goed
- Is er al een licentiecontract met de uitgever?
Zo zorgen we er samen voor dat auteursrechtelijk materiaal wordt gebruikt zoals is bedoeld.

Geldig van 1-1-2021 t/m 31-12-2023

[Higher professional education | Educational Institutions | UvO \(stichting-uvoo.nl\)](#) (Not in English)

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Material for lengthy inclusion may be available through databases licensed by the HU. Alternative text for a lengthy inclusion may also be available via Open Access. If this is not the case, an application must be submitted to the *Stichting UvO* (UvO Foundation) and/or permission can be requested directly from the rightholders. If the HU receives permission to use the material in education, this permission must be clearly stated in the educational material. Application forms for lengthy inclusions are available via EENHU.

<https://husite.nl/formulieren/aanvraagformulier-voor-lange-overnames/> (Not in English)

3.4 Plagiarism and Correct Inclusion

The *Auteurswet* (Copyright Act) defines plagiarism as follows: releasing or publishing another person's work as if it were your own. It is usually accompanied by infringement of that other person's copyright; infringement requires a lack of attribution (sources), or the copying of a section from others that is substantially lengthier than the attribution indicates.

The correct ways of copying from someone else's work are *quoting* and *paraphrasing*. Both do not constitute copyright infringement (Article 15(a)). Quotation involves including (copying) verbatim the words of another author, from their work. Paraphrasing involves conveying the content in your own words.

The inclusion (quoting/paraphrasing) should be related to the context in which it takes place and must be considered an essential part of the whole. This is the case if the inclusion of material serves a substantive function (conveying an impression, an explanation or illustration of the argument posited) and the inclusion must also be relatively limited in scope. Another condition is that the work quoted has been lawfully published. Care should be taken to avoid infringing the publication right of the creator, the copyright owner. The source must therefore be correctly cited.

Failure to adhere to the conditions of quoting or paraphrasing may constitute plagiarism. If a student is found to have committed plagiarism while writing a thesis, article, project, etc., it will be treated as an *irregularity* within the meaning of Article 4.12 of the *Onderwijs- en examenreglement HU* (*OER-HU*; HU Education and Examination Regulations) and may result in a sanction. The student may lodge an appeal against an accusation of plagiarism in accordance with Chapter 7 of the *OER-HU*.

3.5 Neighbouring Rights

The Dutch *Wet op de naburige rechten* (*WNR*; Neighbouring Rights Act) gives a performing artist, film or record company or broadcaster the right:

- to decide whether a performance may be included;
- to decide whether a recording may be reproduced and marketed;
- to decide whether a recording may be broadcast, shown or audio played.

Neighbouring rights protect the work of performing artists and producers. These rules are encompassed in their own act and ensure that performers and producers also have a say as regards the publication of materials. In many ways, the *Wet op de naburige rechten* (Neighbouring Rights Act) is similar to the *Auteurswet* (Copyright Act). Performers and producers can charge fees and also make their consent conditional for reuse by third parties. There are often several parties involved: a work is created by an author, composer, lyricist (copyright) and then performed by performing artists (neighbouring rights). Neighbouring rights are subject to the same exceptions for education as copyright. HU University of Applied Sciences Utrecht adheres to national agreements on neighbouring rights in higher professional education.

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4 PROTECTION OF COPYRIGHTS OF PERSONS WITHIN THE HU (EMPLOYEES, STUDENTS, PNIL)

4.1 Employers' Rights

Copyrights accrue to the HU if the creation of a work by the employee within the meaning of the *Auteurswet* (Copyright Act) took place in the performance of his duties or is performed for the benefit of the employer. (Article 7 of the *Auteurswet* (Copyright Act) and Article E-7 of the Collective Labour Agreement for Higher Professional Education.)

4.2 Agreement

An employee who believes that, although a work has been produced in whole or in part as part of his appointment, the rights should nevertheless belong to him, may - before publication takes place - request the HU to enter into an agreement stipulating that all or part of the copyrights will be vested in the employee. The HU is obliged - after seeking legal advice if necessary - to decide on this request within six weeks, reasonably and with due regard to the interests at stake. The signing of an agreement is done by the person authorised to do so by virtue of the *Bestuurs- en Beheersreglement* (Management and Governance Regulations). For example, the Executive Board, the Institute director or the Research Centre director.

4.3 Outside of the Position

If a staff member creates a work **not rooted directly in his position**, the rights shall be vested in him and not in the employer. If this work is created on the basis of expertise obtained by the author partly in the performance of his duties as part of his position, this does not affect his copyright. Similarly, any review of the material to be published by employees of the HU does not make the HU the rightholder. To avoid conflicts, stakeholders are advised to enter into an agreement as mentioned in Paragraph 4.2 above in such cases as well.

4.4 Readers

For readers, the following applies at all times:

- Copyright is vested in the respective authors of the sections:
if, due to connecting texts, separate explanatory notes, new texts or other circumstances, the reader as a whole should be reclassified as a *work of literature, science or art*, then the copyright is vested in the HU, because a lecturer always produces a reader *in the performance of his duties*.

The HU may decide to mention the name or names of the compilers of readers on the title page or elsewhere; however, such mention does not establish copyright.

- When selling readers to students, the cost price, including copyright fees is the starting point.

4.5 Students

Students who, within the context of their studies, create a work that is, in principle, protected by copyright – e.g. theses and graduation reports – will acquire the copyright to this work, unless the HU and/or third parties and the student concerned have agreed otherwise in advance and in writing.

4.6 PNIL

In the case of staff not employed (*personeel niet in loondienst*; PNIL), written agreements on copyrights are made in a contract at the start of work for the HU.

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5 Protection of the Rights of the Hogeschool Utrecht Foundation

5.1 Disclosing Copyright

The natural person or legal entity to be considered the creator of any literary, scientific or artistic work does not need to take any special measures to obtain the copyright of the work in question. Therefore, if the copyright accrues to the HU by operation of law, it is not necessary to explicitly state the ownership of these rights in all publications. The HU recommends open access publishing with a CC licence - after consultation with any other copyright holder(s) - for the delineation of the legal position and to avoid any misunderstanding.

5.2 Copyright Holders

The organisational units of the Hogeschool Utrecht Foundation are not incorporated (have no corporate personality), so no copyright can arise at this level. However, it is possible for one or more natural persons to be named as copyright holders (possibly in addition to the Hogeschool Utrecht Foundation), for example in an agreement as referred to in Paragraph 4.2 or 4.5.

5.3 Enforcement of Copyright

The HU University of Applied Sciences Utrecht may take all measures - at law and otherwise - that may serve to enforce rights vested in it under the *Auteurswet* (Copyright Act), the *Wet op de Naburige Rechten* (Neighbouring Rights Act), the *Databankenwet* (Databases Act) and additional legislation relating to digital technology.

5.4 Open Access and Creative Commons

Following the signing of the Berlin Declaration on Open Access by the Netherlands Association of Universities of Applied Sciences, HU University of Applied Sciences Utrecht has also become actively committed to open access publishing.

With this, the HU underwrites the principle that knowledge products should be freely accessible and may also be used freely. Usage rights are indicated by Creative Commons licences: sharing in the definition of open access means not only making your work freely accessible (online), but also giving permission to others to use your work (under specific conditions) for their own purposes. Those conditions are named in the Creative Commons licences.

HU University of Applied Sciences Utrecht, as copyright holder, will publish knowledge products as open access whenever possible and preferably with a licence (usage right), unless this is impossible from a laws and regulations perspective or other binding agreements with third parties. Binding agreements with third parties must be archived and retrievable within HU University of Applied Sciences Utrecht.

5.5 Publisher Agreement HU Caveat

In case the HU enters into an agreement with a publisher, it is advised to include a provision (caveat) for post-print/pre-print of an author's version, possibly after an embargo period. The *Auteursrechteninformatiepunt* (AIP; Copyright Information Point) has made guidelines available for publication (visit <https://www.auteursrecht.hu.nl/>).

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6 Support and Information About Copyright in Education

6.1 Copyright information Point

The *Auteursrechteninformatiepunt* (AIP; Copyright Information Point), available through <https://www.auteursrecht.hu.nl/>, acts as the HU's first point of contact for students and staff, providing rules of thumb and Q&A. This information point also forwards more complex matters to the Legal Affairs Department. The AIP is affiliated to a national network (NAI-HBO) of about 40 universities of applied sciences (affiliated to the *Stichting Samenwerkende Hogeschoolbibliotheken* (Collaborating University Libraries (Applied Sciences) Foundation and facilitated by SURF). This network advises the Netherlands Association of Universities of Applied Sciences in negotiations with bodies representing publishers.

6.2 Digital Learning Environment

A digital learning environment is provided within the HU, which can support students in classroom education and workplace learning. The teaching materials available on the digital learning environment can be accessed by lecturers and students only.

A digital learning environment makes it easy for lecturers and students to share information with each other. When sharing digital learning materials, however, the restrictions imposed by laws and regulations must be taken into account, in particular the *Auteurswet* (Copyright Act) and the arrangement with UvO and CC licences.

In general, permission from the copyright holder is required when sharing digital learning materials, unless the education exception applies. This exception to the *Auteurswet* (Copyright Act) provides that a number of things are allowed on-location, in the physical educational space, without having to ask explicit permission from the rightholder.

Secondly, *short* inclusion is allowed in a digital learning environment. Prior approval must be sought for a lengthy inclusion (refer to Paragraph 3.3).

Citing sources is always compulsory. Linking to copyrighted material from a digital learning environment is always allowed, provided these publications have been lawfully disclosed.

If information is distributed under a CC licence, the possibilities for use are often more broad in scope. For the meaning of the various CC licences and their application in education, please refer to <https://www.auteursrecht.hu.nl>

6.3 Recording Video and Images

Recording video and images: employees as creator of video, audio recordings or photographs.

The copyright on photographs, images and video material lies with the HU as the employer. This only applies to the exploitation rights; the personality rights remain with the person depicted. Every person has his or her individual portrait right and can object to recordings of his or her likeness on that basis.

Recording video and images: filming by students in the physical educational spaces.

Students may make film recordings during lessons for their own use and with the permission of classmates and relevant lecturers. Explicit written permission must be sought in case of publication.

6.4 Showing Video and Images

For the purpose of education, a complete audio or audio-visual work may be shown without permission, provided:

- that playing the video serves an educational purpose and is part of the educational programme, and
- that the video is played on-site, in the physical classroom, and

additional rules apply when displaying video and images in the digital learning environment: parts of audio or audio-visual works may be posted in a private electronic learning environment, provided that all the following conditions are met:

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- playing the video/displaying the image only serves to support the education, the video or imagery should therefore be complementary (and not replace the lesson or education);
- the placement is done in a private environment to which only students have access;
- fair compensation is paid to the copyright holders;
- always make sure your sources are cited correctly.

The viewing does not have to take place on-site, in the physical classroom. Students may view or play the works at home or elsewhere (working and studying independent of place and time).

Complete works: putting a copy of a complete work on a private digital learning environment for students to play at home is not allowed without permission from copyright holders.

Linking and embedding to material outside of the HU is allowed, provided sources are cited and provided it is lawfully placed there.

Publishing imagery and video on the internet and social media without the consent of those involved is not legal and, where appropriate, HU University of Applied Sciences Utrecht may take action.

Publishing video on the internet and social media

Publishing imagery and video on the internet and social media without the consent of those involved is not legal and, where appropriate, HU University of Applied Sciences Utrecht may take action.

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Organisations involved:

- [Stichting UvO](#) (UvO Foundation), the education copyright administration office. (Not in English)
- [BUMA](#) (Dutch Performance Rights Organisation), for music copyright of composers and lyricists.
- [SENA](#) (Dutch Performers' Rights Organisation), for the neighbouring rights of performing musicians and producers.
- [Stichting Pictoright](#) (Pictoright Foundation), for re-use of photographic material.
- [Videma](#), for copyright permission to show films. (Not in English)
- [Netherlands Association of Universities of Applied Sciences](#), which concludes joint agreements for universities of applied sciences. (Not in English)
- [NAI-HBO](#), the network of copyright information points at libraries in higher professional education.
- [SURF](#), which facilitates the NAI-HBO.

Websites with general information about copyright in education

- <http://www.auteursrecht.hu.nl/>
- <https://www.stichting-uvo.nl/nl/Hbo> (Not in English)
- <https://www.auteursrechten.nl/en>