

A TREATISE ON COPYRIGHT

For some the issue of copyright can be a tetchy subject. However there is the law and there is the practice and it is perhaps useful to have a clear understanding of each of these.

The law (Copyright Act 1994) is quite simple. S21(1) states that “the person who is the author of a work is the first owner of any copyright in the work.” The Act also states that copyright does not expire until the end of the period of 50 years from the end of the calendar year in which the author dies - s22(1). It is an infringement of the author’s copyright to issue a copy of the work to the public.

There isn’t any way around this – this is what the Act clearly states. What it means to us is that all work published in our magazine (the NZ Model Railway Journal) or any other magazine is the copyright of the Guild and/or the author. It may only be copied by a purchaser of the magazine for their own use (such as to use as a template or plan to build a model).

It may not be copied and sent on to anyone else – anyone! It matters not that the copy is not made for commercial gain – it is still an infringement of the author’s copyright. There are no exemptions to the infringement of copyright; there are no exemptions for “members of the group” “purchasers of the magazine” “only copied for someone else’s private use”. All of these are infringements of copyright.

There are some who think that if they make a copy for someone and acknowledge the original owner that this is OK – it is not. It is a fundamental requirement that nothing can be copied without the author’s permission – in writing (s107 Consent and waiver of rights).

So what does this mean in the hobby? Clearly the law is breached – regularly. It is of concern that articles published in model railway magazines are copied and distributed freely without first seeking the author’s permission. However given the “generosity” of those who participate in the hobby this has not caused any significant issues – most modellers are happy to share the evidence of their work and achievements.

What is not so acceptable is the blatant copying of works which have been produced as part of someone’s personal labour – such as a plan or drawing – without their express permission, or in many cases without making whatever payment they might require.

It is of significance here that drawings and photographs obtained from public organisations such as Archives NZ, the National Library, the Alexander Turnbull Library or Kiwirail are clearly identified by these organisations as their copyright and that making further copies is an infringement of the law and such activity may attract penalties.

There is no reason to think that plans, drawings and photographs produced by organisations such as NZR&LS or NZ Model Railway Guild are any different – copying them for other than personal use is an infringement of the Copyright Act.

Plans produced by the NZ Model Railway Guild (in the Journal and available through the website) are the copyright of the Guild or the original author. Making a copy available to someone else without prior authorisation or payment of the fee (if there is a fee) is an infringement of the Guild’s or the author’s rights.