

Rules of Administration

Irish Copyright Licensing Agency CLG

Introduction

The following Rules of Administration, as stated in the Memorandum and Articles of Association of 5 September 2016, provide for the administration of rights granted by statute, mandate and agreement with other Collective Management Organisations (CMOs) in compliance with SI 156 of 2016 ('the Regulations'). They cover:

- how ICLA is mandated to act on behalf of the copyright holders it represents,
- what the repertoire it is granted by statute and mandate is,
- what the rights that ICLA manages are,
- how ICLA licenses these rights and repertoire on behalf of its rightsholders and
- how ICLA distributes the licence fees it collects to those rightsholders.

How ICLA is mandated – Rightsholders represented

Irish rightsholders

The Irish Copyright Licensing Agency represents Authors and Publishers of text- and image-based works in books and serial publications and their digital equivalents:

Irish publishers: Each publisher signs a mandate allowing ICLA to license the copying of extracts from its publications in accordance with ICLA's licences (page x) on its behalf on a non-exclusive basis.

Irish authors: At ICLA's inception two main bodies representing Irish authors, the Irish Writers' Union and the Society of Irish Playwrights, mandated ICLA to act on behalf of their members. Now each author signs a mandate allowing ICLA to license the copying of extracts from his or her publications according to certain rules used in ICLA's licences (page 3) on his or her behalf on a non-exclusive basis.

Non-mandating rightsholders: Whenever ICLA contacts a non-mandating author or publisher, ICLA asks for a mandate from the rightsholder to include their work in ICLA's licences on a non-exclusive basis.

The mandate: The wording of the mandate is available on the Register of Licensing Bodies. It is reviewed from time to time by the Board to ensure it complies with ICLA's Guiding Principles and the Regulations.

Irish newspaper publishers: The NLI (Newspapers Licensing Ireland) has mandated ICLA to include its material in ICLA's licences on a reciprocal and non-exclusive basis to facilitate one-stop licensing solutions.

Irish visual creators: Ireland's collecting society representing Visual Artists, established in 2006 (IVARO), has mandated ICLA to act on behalf of its members. All visual works in published materials covered by ICLA licences are thereby included except where expressly stated on the Excluded List.

Foreign rightsholders

ICLA is a member of the International Federation of Reproduction Rights Organisations (IFRRO). Through this membership and independently, it has entered into reciprocal agreements with many of its sister organisations abroad, and seeks to enter into further such agreements with other CMOs as and when they fulfil the criteria listed below - an up-to date list of these agreements is available on www.icla.ie. Through these reciprocal agreements, the licences ICLA sells include photocopying, scanning and digital copying not only from Irish works but also many foreign works. Through the reciprocal agreements, ICLA also receives royalties for photocopying, scanning and digital copying of Irish works abroad.

The CMOs with which ICLA has reciprocal and unilateral agreements operate according to the IFRRO Code of Conduct or the CISAC Professional Rules.

How ICLA manages its repertoire – Licensing

The following describes the manner in which ICLA licenses use of copyright material on behalf of, and in the best interests of, the rightsholders it represents.

ICLA licenses both individuals and organisations, (including educational establishments, universities, businesses, professional firms, government departments and public bodies) to copy extracts from certain publications (see the Repertoire below) according to certain rules (see The Licences) for a standard fee (see Licence Tariffs) on a non-exclusive basis.

The Repertoire – works included in licences

Materials licensed for photocopying comprise all books, journals and periodicals published in Ireland and in those countries listed on www.icla.ie on a licence-specific basis excepting Excluded categories of works (below) and Excluded works as advised on www.icla.ie.

Materials licensed for digital copying and distribution comprise books, journals and periodicals as shown on www.icla.ie excepting the Excluded categories and Excluded works as advised on www.icla.ie

Excluded categories: ICLA licences do NOT cover the following categories of works published in Ireland:

- printed music (including the words)
- workcards or assignment sheets
- standalone maps or charts
- standalone photographs, illustrations or diagrams
- privately prepared teaching material (such as correspondence courses)
- industrial journals
- ‘photocopiables’ – publications which explicitly include a licence for their content to be copied by the purchaser.

Excluded works: Rights holders can request that any of their publications be excluded from all or any of ICLA’s licences on a licence-specific and use-specific basis. These exclusions are listed on www.icla.ie and are updated in line with rightsholder demand.

The Licences

ICLA has two main types of licence: educational and commercial.

1. The Educational Licences

These licences (for Primary Schools, Post-Primary Schools, universities, colleges, adult education institutions and ELT colleges) allow the user to copy for immediate use and storage under certain conditions:

- Up to 5% (or 10% in the case of the HE Licence) or one chapter (whichever is the greater) of a book, except in the case of a short story or poem which can be copied in its entirety provided it does not exceed ten pages in length.
- The whole or part of one article from a journal or periodical issue provided that issue contains at least one other article
- Up to the number of copies required to provide each member of the class with one copy plus two copies for the teacher.

2. The Commercial Licence

The licence allows the user to copy for immediate use or for storage under certain conditions:

- Up to 5% or one chapter (whichever is the greater, provided it is not greater than 20%) of a book, except in the case of a short story or poem which can be copied in its entirety provided it does not exceed ten pages in length
- The whole or part of one article from a journal or periodical issue provided that issue contains at least one other article

ICLA licences explicitly do not allow:

- The copying of complete works

- The systematic copying of parts of works so as to substitute for the whole work
- The copying of works which are themselves copies unless they are copyright-fee-paid copies or equivalent
- The republishing of licensed material in any manner or form
- The sale, rental or other commercial usage of any licensed material for valuable consideration.

Granting licences

ICLA conducts negotiations for the licensing of rights in good faith and provides potential licensees with all necessary information, directly and via www.icla.ie, and makes clear to potential licensees the information it needs before offering a licence.

On receipt of the requested information ICLA decides whether it is appropriate to offer a licence and either does so or explains why a licence is not appropriate.

Licence tariffs

ICLA's tariffs are filed annually with the Controller. These tariffs are reviewed:

- Primary education – every two years
- Post-primary education – annually
- Higher education – annually
- Business - annually

How ICLA remunerates its rightsholders - Distribution of licence fees

The following describes the manner in which ICLA distributes licence fees to Irish rightsholders and to other CMOs including the deductions policy:

Deductions

ICLA's Deductions Policy is agreed by the ICLA Board and each year the ICLA Board agrees deductions for the coming year based on the accounts for the previous year and the Business Plan for the coming year.

Deductions are made to cover the administrative costs of ICLA, including but not restricted to, the activities set out in these Rules of Administration.

The guiding principal is for the costs of administration not to rise above 20% of licence-fee income.

Basis for distributions - Data collection / Sampling process / Surveys

All Irish licence fee income (minus administration costs) is distributed to rightsholders on the basis of copying data supplied by its licensees.

Survey methods, which are specific to each sector licensed, are agreed by the Board on the basis of:

Statistical validity

Practicality/the situation on the ground in the sector

The cost in relation to the total income from the licence sector so that the cost of the survey does not exceed 5% of licence income

Voluntary industry standards for the data format

All ICLA licences include a clause requiring the licensee to: *'comply with the record-keeping procedures approved from time to time by ICLA, and shall make its records available to ICLA upon request'*, together with the assurance that this will not happen more than once in a licence period and that all records will be kept confidential and used only for the purposes of licence-fee distribution.

Investment of licence fees pending distribution - General investment policy

ICLA invests rights revenue or any income arising from the investment of rights revenue in the best interests of the rightsholders it represents in accordance with the general investment and risk management policy set by the General Assembly of Members to ensure the security, quality, liquidity and profitability of the portfolio. Specifically:

- A range of short-term, medium-term and longer-term investments to ensure there is an appropriate return on investment for rightsholders while sufficient funds are available for timely distribution
- A diversity of investment types to minimise risk for rightsholders while obtaining an appropriate return on investment for them.

Supporting policies

ICLA additionally has separate policies available on www.icla.ie covering:

- Distributions Policy
- Complaints procedure