

## **PASA PERMISSIONS GUIDELINES 2015**

### **Introduction**

The objective and purpose of the PASA Permissions Guidelines (“PASAPG”) is to facilitate and efficiently streamline the process of requesting and granting permission to re-use limited amounts of previously published material in subsequent publications, the latter of which is to constitute a predominantly original work. For signatories, the PASAPG’s simplify the process of publisher-to-publisher permissions and applies insofar rights are to be cleared in relation to a proposed re-publication as part of a new and original work of authorship. The PASAPG do not substitute licensing arrangements or multi-chapter and article permissions for other types of re-use. The PASAPG’s encourage and operationalize principles for rights clearance that is based on industry custom and best practice, common decency, mutual trust and fairness.

The PASAPG’s are voluntary and open to PASA members who elect to participate as a signatory. Furthermore, these Guidelines are reciprocal and each signatory may only benefit from the presumption of permission established if it also is prepared to grant permission to content in accordance herewith and, in principle, with the entire list and all imprints originating from South Africa and published in the Territory (Southern and Eastern Africa, see below detailed country list). However, adherence hereto remains voluntary and each participating publisher reserves the right to make commercial judgements about the re-use of their material.

Permission clearance for re-publication requests in relation to primary publication materials in secondary or tertiary publications where less than 70% of the total secondary or tertiary publication consist of original material falls outside the scope of the guideline. Thus, if 30% or more of materials in the secondary or tertiary publications are non-primary or originated by third parties, permission may not be requested through these PASAPG’s and should be sought from the relevant publisher by way of an individual permissions request stating in express terms the uniqueness of the request and the fact that it falls outside the scope of these Guidelines. For avoidance of doubt, a Guidelines Permissions Request (GPR) refers to an actual single request in accordance with these Guidelines.

Permissions cleared between fellow signatories on the terms outlined in the section below are granted free of charge strictly up to the limits indicated. Furthermore, these Guidelines establish a justified presumption of permission in the absence of any communication to the contrary within the stipulated period. Thus, if a requesting publisher adheres to the terms of these Guidelines by timeously providing the adequate information as exemplified in the attached sample Guidelines Permission Request, and the receiving publisher, who in fact is the rightsholder, does not raise any objection or pose further questions within the stipulated period, a justified presumption of permission has been established. To avoid doubt, sending a GPR does not create a presumption that the recipient publisher is in fact

the rightsholder; this is a risk the requesting publisher must bear if he relies on a silent permission

In the following section, the recommended Guidelines are outlined as the best working practice for dealing with permissions:

### **1. Scope**

These Guidelines only apply if the publisher is the rightsholder (signatories should ascertain who likely is the rightsholder before making a permission request; recipients of a request should quickly confirm or deny to be the rightsholder, as a matter of courtesy). Any material credited in a publication to another source is not covered and permission should be sought from the relevant copyright owner. These Guidelines do not extend to any content that did not originate in South Africa, to poetry, to short works and to any content published before 1 January 2005. Thus, for avoidance of doubt, these Guidelines only pertain to works that originated in South Africa and that was first published on or after 1 January 2005, excluding poetry and short works. Permissions granted for illustrations, figures or any other content owned or controlled by the publisher from whom permission is sought does not constitute a permission to use such content as a book cover or on other promotional designs and any permission should be sought separately.

### **2. Quantity limits for gratis permissions**

Permission will be granted, free of charge, with respect to a book or a journal article being prepared for publication, if it contains no more than:

- I. Three figures (including tables) from a book chapter or journal article but,
  - a. Not more than five figures from a whole book or journal issue/edition;
  - b. Not more than six figures from an annual journal volume; and
  - c. Not more than three figures from works published by a single publisher for a book chapter or an article (and no more than thirty figures from a single publisher for re-publication in a book, including a multi-volume book, with different authors per chapter)
- II. Single text extracts of less than 400 words from a book chapter or journal article, but
  - a. Not more than a total of 800 words from a whole book or journal edition/issue.

Any permission request exceeding the above limitations should be made, in express terms, to the relevant publisher which may require permission fees.

### **3. Format and means of distribution**

Permission granted for re-use of content in terms of these Guidelines extend to any print and electronic version of that work, provided that the latter is essentially identical to or substitutes the print version, that the material is incidental to the work as a whole and that

the work and any embedded material (or a link to it) remains in situ (part of a book/journal or ebook, ejournal) and is not to be separately exploited. Permission granted also includes publisher-authorised distribution by third party distributors, aggregators or other licensees of the work that includes the permissioned materials as whole.

#### **4. Further Editions, Translations, Cessation and Transfer, Work in Progress**

Permissions granted under these PASAPG remain valid between signatories and need not be re-applied for any reprints, further editions, or translations carried out by the signatory publisher who has received said permission. This applies even to editions, titles or imprints that have been transferred from one signatory to another and which contain third-party content originally permissioned under these PASAPG's. For avoidance of doubt, these editions are limited for the work as a whole in situ and do not involve the separate exploitation of the permitted illustrations or excerpts.

For all other purposes, permissions granted and received between the signatory publishers based on these PASAPG'S are personal and only valid between the fellow signatories that are party to an individual grant of permission. Any permission so obtained cannot be transferred or assigned to any other person or publisher.

In case of assignment or transfer of whole or part of publishing lists, series editions, titles or imprints from a signatory to a non-signatory publisher or any other person and the latter wishing to release further editions or translations of titles that contain content for which permission had been granted at a time the PASAPG's applied to the list, series, title, or imprint in question, any republication rights are limited to the exact reprint publication and the non-signatory must re-request independent permission from the relevant publisher for any new edition, re-translation, new translation or further editions.

Where work or production of a further edition has commenced prior to the permission granting or receiving publisher being a signatory or prior to the transfer of a list, series, title or imprint, the edition or translation to a non-signatory, the said further edition may be published under the previously granted permission, provided that it is so published within 360 days of the cessation or transfer to a non-signatory, as the case may be.

#### **5. Proper Credits**

The author(s) and publisher(s) of the material(s) re-used shall be properly credited and the following information should be clearly referenced:

- I. Material re -published from books – author, title, edition, ISBN, publisher, city, country Copyright © year;
- II. Material re-published from journal articles – author, article title, journal title, volume number, issue number, page range, date, publisher, DOI or article number, ISSN;

- III. Electronically published material – a link to the version of record should be provided back to the original article (via DOI in the case of journal articles and where available for academic textbooks and monographs).

## 6. Territory

This Guideline applies to the following countries:

Angola	Mauritius
Botswana	Mozambique
Burundi	Namibia
Cameroon	Nigeria
Central African Republic	Rwanda
Comoros	Seychelles
Democratic Republic of Congo	Somalia
Republic of Congo	South Africa
Equatorial Guinea	Swaziland
Gabon	Tanzania
Kenya	Uganda
Lesotho	Zambia
Madagascar	Zimbabwe
Malawi	

Publishers who do not hold rights to all of the above in relation to certain lists, series, titles or imprints, should provide an annex on becoming a signatory excluding the territories in relation of which they do not hold rights covered by the PASAPG.

## **7. Procedure**

### **I. Enrolling as signatory**

Any publisher who desires to participate as a signatory must send an email to Rowena Unthank at [pasa@publishsa.co.za](mailto:pasa@publishsa.co.za) or a physical letter via courier to House Vincent, Wynberg Mews, 1<sup>st</sup> Floor - Unit 104, Brodie Road, Wynberg, 7800.

On such email the publisher is to provide:

- a) Its physical address,
- b) Telephone number,
- c) Details of the contact person (including name, surname, position and contact information; include several in case the contact persons differ for different publications; in such case, also include a default contact person where any other person is uncontactable or their details are not kept current.).
- d) A link to its website: and
- e) A list containing all the publisher's current imprints.

Once the publisher is enrolled as a signatory, it will receive an email to this effect from PASA. Alternatively, Rowena Unthank shall inform the requesting publisher if more information is required.

On joining as signatory, the publisher commits itself to these principles and undertakes to follow them as far as possible but may elect to deny a specific request, or granting it with a condition such as a monetary contribution or for a specified duration, as a matter of copyright policy or concerns.

The list of imprints, contact details, contact person details as well as any other information about the publisher is to be updated as soon as any change occurs, with due prior notice of such change to PASA, specifically stating the effective date of such change.

The complete, updated list of signatory publishers and their details as reflected above will be available to all signatories.

### **II. Permission Request**

The requesting publisher is to send an email to the correct addressee as indicated by the publisher (rights holder) who is to grant permission (the correct contact details and addresses will be available as part of the list of signatories). The requesting publisher should clearly mark the email to the effect that it is a PASAPG's Permissions Request and it should, in the least, adopt the form as contained in the attached example which illustrates the minimum information required to trigger a justified presumption of permission. If, for any reason, there is any doubt whether the request was duly received, the requesting publisher must also contact the default contact of the granting publisher and do whatever is necessary to ensure safe receipt of the request by the correct person.

Once the permission request is sent (with adequate proof of receipt in the form of email or courier receipts), the applicable notice period commences. The notice period runs for 20 business days, starting the day the request was sent. When the notice period lapses without any response from the receiving publisher, a justified presumption of permission has been established and the requesting publisher may proceed to re-publish the content as requested. To be clear, permission is granted tacitly (no response) and if the receiving publisher intends to object to the permission request, it is required to respond to the request within the stipulated period; remaining silent or failure to communicate will result in grant of permission.

The permission requests must be in express terms, accurate and submitted timeously. The notice period will not be reduced to meet a publication deadline or extended to allow extra time to remedy permission request defects. The presumption of permission only establishes once the notice period has lapsed and any content may thus not be re-published before the said period is over. Finally, the presumption of permission established through this process is only binding between signatories and third parties are not bound by this presumption.

Considering the deadlines associated with educational textbook submissions and acceptance, it is recommended to submit a permission request well before and, in any event, **30 business days before the provincial or national submission deadline**. Any permission requests delivered in such manner will have a benefit of the presumption of grant of permission dealt with above. Furthermore, any permission request falling outside the recommended timeline, if unanswered, will not benefit from any such presumption.

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