1. Am I allowed to show part of a film or movie during a lecture?

Generally, when causing a film to be seen in public, you do not avoid infringement by limiting the audience to a small group of friends or relatives. However, the act of screening or allowing the screening of cinematograph films by either the students or the staff of an educational institution, and viewed by students in a classroom environment within the campus is deemed to be a non-public performance by virtue of section 23(4) of the Copyright Act. As such, the screening of a film during a lecture does not amount to infringement of the film copyright relating to “causing the film to be seen in public”.

2. How do I know what conditions are attached to a film if I intend to use it for purposes other than for screening during a lecture within the campus?

The terms of use attached to a film can usually be found on the paper sleeve of the original CDs or DVDs, or in the original booklet that accompanies the CD or DVD, if any. These terms of use would usually contain limitations as to the manner in which you are entitled to use the content thereof.

3. Are musical works, literary or dramatic works performed by students or staff of an educational institution in the premises of the institution considered public performance?

No. The performance of a musical work is deemed to be a non-public performance provided that they are performed in the course of activities of the institution.

For performance of literary or dramatic works, they are deemed to be non-public performances if the audience is limited to persons who are taking part in the instruction or are otherwise directly connected with the place where the instruction is given which is defined by the Copyright Act to mean a parent, guardian, brother or sister of a student who receives instruction at that place.
4. What about using music for presentation slides in class? And is there any difference between showing it in class and showing it in a grand ballroom of a hotel?

As explained in question 3 above, the use of musical works in presentation slides for purposes of a lecture conducted in a classroom is deemed to be a non-public performance, and as such will not infringe the copyright of the musical works used. On the contrary, the use of a musical work in a grand ballroom of a hotel for a Dinner & Dance or a Convocation Party can potentially amount to infringement of its copyright if the use of such musical work is not in relation to educational purposes, but merely for social purposes.

5. What if I used a still shot from a movie or a film, do I still need to go back to the copyright owner of the film to obtain permission for displaying it?

If the still shot forms a significant part of a movie or film, and it is not used in relation to educational purposes carried out in educational institutions, then you need to obtain the consent of the copyright owner unless the use thereof is expressly allowed by the copyright owner.

However, if the still shots taken from a movie or film do not form a significant part of the movie, it is possible to argue that no infringement of copyright has been committed. The key question is whether you are taking a substantial portion of what appears in the movie. You see, if the movie is about one and a half hours long and the still images that you take comprise an insignificant part of the movie, then you can possibly argue that what you have reproduced does not amount to a substantial amount of taking. So, substantiality of the copying is also relevant.

6. If the copyright owner prohibits me to use a musical work or dramatic work for educational purposes in its terms of use, does that override the provisions of the Copyright Act which allow such work to be used for educational purposes?

The copyright owner cannot prohibit you from using a musical work or dramatic work for educational purposes in its terms of use as the Copyright Act has expressly allowed musical work or dramatic work to be used for educational purposes.

However, in the event that you have contracted with the copyright owner not to use a particular musical work or dramatic work for educational purposes, the terms of the contract agreed upon by both parties will prevail notwithstanding that the Copyright Act allows such usage, unless the provision of the Act that is contracted out of is expressly stated in the Act to be a mandatory provision. In the case of a “standard terms” contract where you are not given the opportunity to negotiate the terms with the copyright owner, then it is possible to challenge the enforceability of the standard terms on the basis that they are unfair contract terms.
7. **Does attaching images obtained from the internet on my presentation slides used for purposes of a lecture amount to infringement of copyrights?**

This depends on the terms of use. Certain images on the internet are made available on the basis that they can be used for non-commercial purposes.

If there are no terms of use attached to a picture obtained from the internet, it is presumed that the picture is not allowed to be reproduced unless the defense of fair dealing applies. The extent of which the picture is reproduced is also a relevant factor in determining if there is infringement of copyright. If a substantial part of the picture is reproduced without the consent of the copyright owner, it is very likely that you have infringed the owner’s copyright. For instance, if you only reproduce one portion of a huge picture that you have downloaded from the internet, you can use that portion without being exposed to copyright infringement claims because the portion reproduced cannot be considered as a substantial portion of the work.

It has to be noted that the mere fact of reproduction of a picture would already constitute an infringement of copyright, regardless of whether the presentation slide is shown to the public or in a classroom setting. On the practical side of things however, copyright owners are unlikely to enforce their rights for infringement of copyrights if the pictures are used for one-off, non-commercial purposes (where no profits have been derived from the use of such pictures by the user), so the risk of facing an infringement claim would be relatively low. As such, the user must decide on balance, whether to use the picture for purposes of his presentation, bearing in mind the potential risks of infringement claims that he may face.

8. **Do Am I infringing copyright if I read out / display a passage of a famous novel in my class?**

Reading out a passage does not amount to reproduction in material form. However, one of the exclusive rights reserved to the owner of the novel is to perform the work in public. While the reading of the work constitutes a performance of the work, it is deemed not to be a performance in public if performed by students or staff of an educational institution in the classroom as part of the course of activities of the educational institution.

If you write out the passage on a transparency or on the board and show it to the class for purposes of a course of education, there is no infringement since reproduction of the passage on the transparency or board is not by means of a reprographic process. However, if you photocopy the passage onto a transparency or use a computer to copy and paste an electronic file containing the passage into a powerpoint slide, then the reproduction done would have involved a reprographic process, and in that event, you will have to then see if there is any substantial copying, and if so, whether any of the defences like fair dealing for purpose of criticism and review apply.
9. If I am tasked with recording a lecture and the presentation slides used during the lecture contained materials that infringe copyrights of the owner, do I also commit infringement of copyrights by recording the lecture?

Yes, you will also be infringing the copyrights of the owner by recording the said lecture if what is recorded is in the first place infringing material. So for example, in the course of a lesson, a significant portion of the movie is screened as part of the lesson, and that screening of the movie is an infringement. If you sit in a lecture theater with your mobile camera and you film that movie, that itself would amount to infringement because you are making an unauthorized copy of the movie. This is so regardless of whether or not you know about the legality of the screening.

10. If that’s the case, let’s say it’s a lecture of 1 hour and there 30 minutes of infringing material on it, is that considered substantial?

Substantiality is really a matter of degree. It not just depends on the time covered but it also covers just how important that particular content is in relation to the entire work. For example, you decided to copy the lyrics of a song, and the portion that you copy is actually the chorus, just four verses of the chorus, but that chorus is repeated 3 or 4 times in the course of the song. You are considered to have taken a substantial portion of the song even though the song has got a lot more to it than just the chorus. And that would be copyright infringement. This is even if you take four out of maybe two hundred verses.

11. Do I infringe the copyrights of the owners who have uploaded their videos on Youtube’s website when these videos are shown to my students in a class?

No, you do not infringe the copyright of the owners by merely showing the videos to your students because the owners who have uploaded the videos on Youtube must have taken to have consented to the viewing of these videos by people who have accessed to the internet, particularly when no security controls are put in place to control the manner in which the public can receive the videos.

12. Do I commit any infringement of copyright if I allow a video (e.g. a movie or a television show) to be shown in my class, knowing that the video infringes the copyright of the owner?

Yes, you would infringe the copyright of the owner if you allow your students to view a video which is an infringing copy of a film (eg. a pirated copy of the movie). However, there is no infringement if what is shown is an original copy of the film, as such a screening is deemed not to be a public performance if done in the course of the activities of an educational institution.
13. Are videos shown through streaming technology considered as copies if I view them on my pc?

They are considered as transient copies and the problem with transient copies is that although they are prima facie not infringing, if what you receive is itself an infringing copy, then you cannot rely on the transient copy defense. The transient copy defense only works if the work that you are receiving is non-infringing.

14. Is it alright to show the slides containing materials provided by the publisher (for purpose of teaching) to the public?

It is alright, as long as the publisher has given its consent for the use of such materials for classroom teaching.

15. Am I infringing copyrights if I alter the format of the material provided by the publisher and show it to the class?

See answer to question 8 above. In any event, if the material has been substantially modified before it is shown to the class, there is unlikely to be any infringement on your part since there would not have been any substantial copying.