Copyright term in SA:
With some exceptions, works are protected for the lifetime of the author/creator plus 50 years from the end of the year in which he/she dies. A publisher also has copyright on a published edition for 50 years from date of publication. The work goes into the public domain when this long period expires.

Copyright law and exceptions:
Currently the Copyright Act No. 98 of 1978 (as amended) restricts access to information as it does not have any exceptions for online reproduction, digitisation or preservation of works (whether they are chapters of books, articles, artworks, images, etc., or complete works (or major parts of works) or whole collections. There are also no provisions for format-shifting from old technologies to new technologies (e.g. conversion from VHS tapes to DVD; audiotapes to CD, etc.)

The only exceptions relate to ‘fair dealing’ (Section 12) as well as Section 13 exceptions which relate to single copies made by a librarian or student, for personal use, or by a lecturer (e.g. limited single handouts in a classroom situation). There are no exceptions for making multiple copies, e.g. in course-packs or online scanning for elearning platforms, or for placing material on flashsticks, sending via email, placing on CD or DVD, or digitizing or preserving works in the digital environment. We recommended exceptions for these purposes in the Joint Academic Submission on the Copyright Amendment Bill 2015 and hope they have been included in the revised Bill, which was approved by Cabinet in June 2016. It will now go to Parliament in mid-August 2016 but is only likely to be enacted in 2017.

Digitisation and Preservation:
Prior permission is necessary if digitizing any works in the following categories, i.e. literary works (e.g. books, newspapers, journals, etc.) musical works, artistic works (including photographs, posters); cinematographic films; sound recordings; broadcasts; programme-carrying signals; published editions and computer programs, EXCEPT where the copyright term has expired, or if there is a specific licence with conditions permitting certain activities, e.g. a Creative Commons licence, Open Access provisions, etc.

It is best to prioritise works for digitisation purposes, e.g. consider out of copyright works, fragile, old or damaged works, and Open Access and Creative Commons licensed material first. Always acknowledge the sources. Get permission for works still in copyright. If the works are ‘orphan works’ (i.e. rightsowners not known), one would need to trace the rightsowners, before reproducing or digitising the works. Permissions should be in writing and should be digitised and stored with the relevant works online. N.B. Take into account rightsowners’ conditions, prohibitions, restrictions, embargoes, etc.

Useful resources:
- Copyright & Related Matters with regard to digitisation - http://ir.nrf.ac.za/handle/10907/87
- Sherpa/Romeo – for copyright policies of publishers regarding institutional repositories - http://www.sherpa.ac.uk/romeo/index.php

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