Step #1: The first step considers the “purpose.” The Copyright Act identifies a limited number of purposes that qualify under this exception. If your purpose does not qualify, contact the copyright owner for permission prior to using their work.

Step #2: The next step is to assess the “fairness” of your dealing. See reverse to assess whether your dealing is “more fair” or “less fair” based on the six factors. As long as the majority of your reasons for copying are “more fair,” then you have a stronger argument for fair dealing. The majority, but not all, must be “more fair.”
In Canada, the purpose of the dealing will be fair if it is one of the allowable purposes under the Copyright Act, namely, research, private study, criticism, review, or news reporting, see ss. 29, 29.1, and 29.2 of the Copyright Act. As discussed, these allowable purposes should not be given a restrictive interpretation and could lead to a wide public dissemination of the work—one of the goals of copyright law. See Beloff v. Pressdram Ltd., [1973] 1 All E.R. 241 (Ch. D.). Moreover, as the Court of Appeal explained, some dealings, even if for an allowable purpose, may be more or less fair than others.

The Six Factors of Fair Dealing (from CCH Canadian Ltd. v. Law Society of Upper Canada)

(i) The Purpose of the Dealing
In assessing the character of a dealing, courts must examine whether the copyright owner was dealt with unfairly. If multiple copies of works are being widely distributed, this will tend to be unfair; however, a single copy of a work is used for a specific legitimate purpose, then it may be easier to conclude that it was a fair dealing. If the copy of the work is destroyed after it is used for its specific intended purpose, this may also favour a finding of fairness. It may be relevant to consider the custom or practice in a particular trade or industry to determine whether or not the character of the dealing is fair. For example, in Sillitoe v. McGraw-Hill Book Co. (U.K.), [1983] F.S.R. 545 (Ch. D.), the importers and distributors of “study notes” that incorporated large passages from published works attempted to claim that the copying was fair dealings because they were for the purpose of criticism. The court reviewed the ways in which copied works were customarily dealt with in literary criticism textbooks to help it conclude that the study notes were not fair dealings for the purpose of criticism.

(ii) The Character of the Dealing
If the reproduced work is likely to compete with the market of the original work, it must be considered by courts whether a dealing is fair. Although certainly not determinative, if a work has not been published, the dealing may be more or less fair. Also, if the reproduction is not complete or if the reproduction is in a different form, the court may consider whether the dealing was reasonably necessary to achieve the ultimate purpose. For example, if a criticism is made of a work in question, it may be necessary to reproduce the copyrighted work in question to achieve this purpose. However, if the work is known to be confidential, this may not weigh as heavily against a finding of fairness.