

Legal Deposit Libraries Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Culture, Media and Sport, with the consent of Chris Mole MP, will be published separately as Bill 26-EN.

Legal Deposit Libraries Bill

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TO

Make provision in place of section 15 of the Copyright Act 1911 relating to the deposit of printed and similar publications, including on and off line publications; to make provision about the use and preservation of material deposited; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Duty to deposit

1 Deposit of publications

- (1) A person who publishes in the United Kingdom a work to which this Act applies must at his own expense deliver a copy of it to an address specified (generally or in a particular case) by any deposit library entitled to delivery under this section. 5
- (2) If a deposit library other than the authority controlling the Library of Trinity College, Dublin has not specified an address, the copy is to be delivered to the library.
- (3) In the case of a work published in print, this Act applies to— 10
- (a) a book (including a pamphlet, magazine or newspaper),
 - (b) a sheet of letterpress or music,
 - (c) a map, plan, chart or table, and
 - (d) a part of any such work;
- but that is subject to any prescribed exception. 15
- (4) In the case of a work published in a medium other than print, this Act applies to a work of a prescribed description.
- (5) A prescribed description may not include works consisting only of—
- (a) a sound recording or film or both, or
 - (b) such material and other material which is merely incidental to it. 20

- (6) Subject to section 6(2)(h), the obligation under subsection (1) is to deliver a copy of the work in the medium in which it is published.
- (7) In this section, “address” means an address in the United Kingdom or an electronic address.

2 New and alternative editions 5

- (1) This Act does not apply to a work which is substantially the same as one already published in the same medium in the United Kingdom.
- (2) Where substantially the same work is published in the United Kingdom in more than one medium—
- (a) section 1(1) applies only in relation to its publication in one of those media, and 10
 - (b) that medium is to be determined in accordance with regulations made by the Secretary of State.
- (3) The Secretary of State may by regulations make provision as to circumstances in which works are or are not to be regarded for the purposes of this section as substantially the same. 15

3 Enforcement

- (1) This section applies where a person (“the publisher”) who is required by or under this Act to deliver anything to an address specified by a deposit library, or to a deposit library, has failed to comply with that obligation. 20
- (2) The library may, in accordance with rules of court, apply to the county court (or, in Scotland, to the sheriff) for an order requiring the publisher to comply with the obligation.
- (3) If on an application under subsection (2) it appears that—
- (a) the publisher is unable to comply with the obligation, or 25
 - (b) for any other reason, it is not appropriate to make an order under that subsection,
- the court or sheriff may instead make an order requiring the publisher to pay to the library an amount which is not more than the cost of making good the failure to comply. 30

Printed publications

4 Printed publications: the British Library

- (1) The British Library Board is entitled to delivery under section 1 of a copy of every work published in print.
- (2) The copy must be delivered within one month beginning with the day of publication. 35
- (3) The copy is to be of the same quality as the best copies which, at the time of delivery, have been produced for publication in the United Kingdom.
- (4) The Board must give a receipt in writing (whether sent by electronic or other means). 40

5 Printed publications: other libraries

- (1) Each deposit library other than the British Library Board is entitled to delivery under section 1 of a copy of any work published in print which it requests.
- (2) A request under this section must be in writing (whether sent by electronic or other means). 5
- (3) A request—
 (a) may be made before publication, and
 (b) in particular, may relate to all future numbers or parts of an encyclopaedia, newspaper, magazine or other work.
- (4) No request may be made after the end of 12 months beginning with the day of publication. 10
- (5) The copy must be delivered within one month beginning with—
 (a) the day of publication, or
 (b) if later, the day on which the request is received.
- (6) The copy is to be of the same quality as the largest number of copies which, at the time of delivery, have been produced for publication in the United Kingdom. 15

*Regulations***6 Regulations: non-print publications**

- (1) The Secretary of State may by regulations make provision with respect to the application of this Act to works published in media other than print. 20
- (2) Regulations under this section may in particular—
- (a) make provision about the time at which or the circumstances in which any deposit library becomes or ceases to be entitled to delivery under section 1; 25
- (b) require the person mentioned in section 1(1) to deliver, with the copy of the work, a copy of any computer program and any information necessary in order to access the work, and a copy of any manual and other material that accompanies the work and is made available to the public; 30
- (c) require delivery within a time prescribed by reference to publication or another event;
- (d) permit or require delivery by electronic means;
- (e) where a work is produced for publication in copies of differing quality, specify the quality of copies to be delivered; 35
- (f) where a work is published or made available to the public in different formats, provide for the format in which any copy is to be delivered to be determined in accordance with requirements specified (generally or in a particular case) by the deposit libraries or any of them;
- (g) make provision as to the circumstances in which works published on line are or are not to be treated as published in the United Kingdom; 40
- (h) specify the medium in which a copy of a work published on line is to be delivered.

- (3) Regulations under this section may not be made so as to apply to works published before the regulations are made.

7 Access to and preservation of non-print publications

- (1) The Secretary of State may by regulations amend an enactment or subordinate legislation, whenever passed or made, so as to provide that copyright, publication right, database right and any similar right in relevant material is not infringed by a person within a paragraph of subsection (2) doing anything within that paragraph. 5
- (2) The persons and acts are—
- (a) a deposit library or a person acting on its behalf copying relevant material for the purposes of preservation or of gaining or providing readers with access to that or other relevant material; 10
 - (b) a deposit library or a person acting on its behalf making an adaptation of a database or computer program for the purposes of preservation, if the database or program is relevant material; 15
 - (c) a reader making a temporary copy of relevant material, insofar as it is necessary to do so in order to access that or other relevant material.
- (3) In this section—
- “reader” means a person who, for the purposes of research or study and with the permission of a deposit library, is on library premises controlled by it; 20
 - “relevant material” means all or part of—
 - (a) a work published in a medium other than print, deposited under section 1(1);
 - (b) a computer program or material within section 6(2)(b), deposited pursuant to regulations under section 6. 25
- (4) In subsections (2) and (3), references to a deposit library include references to the Faculty of Advocates.

8 Regulations: supplementary

- (1) Any power under this Act to make regulations— 30
- (a) includes power to make different provision for different purposes, including in particular different media, descriptions of work, deposit libraries or areas; and
 - (b) as well as being exercisable in relation to all cases to which it extends, may be exercised in relation to those cases subject to specified exceptions, or in relation to a particular case or class of cases. 35
- (2) Regulations under this Act may not be made without the consent of the Scottish Ministers if they would—
- (a) remove an entitlement conferred by or under this Act on the authority controlling the National Library of Scotland, or 40
 - (b) confer an entitlement that is not conferred on that authority on any other deposit library.
- (3) Subsection (2) does not apply where the entitlement is to delivery of copies of electronic publications and—
- (a) in the case of legal publications, the Faculty of Advocates, or 45

- (b) in any other case, the authority controlling the National Library of Scotland,
is provided with a means of accessing those publications electronically.
- (4) Where subsection (2) does not apply, regulations under this Act that would affect the authority controlling the National Library of Scotland may not be made unless the Secretary of State has consulted the Scottish Ministers. 5
- (5) Regulations under this Act may not be made without the consent of the National Assembly for Wales if they would –
- (a) remove an entitlement conferred by or under this Act on the authority controlling the National Library of Wales, or 10
- (b) confer an entitlement that is not conferred on that authority on any other deposit library;
but this does not apply where the entitlement is to delivery of copies of electronic publications and that authority is provided with a means of accessing those publications electronically. 15
- (6) Where subsection (5) does not apply, regulations under this Act that would affect the authority controlling the National Library of Wales may not be made unless the Secretary of State has consulted the National Assembly for Wales.
- (7) Regulations under this Act may not be made unless the Secretary of State has consulted – 20
- (a) the deposit libraries, and
- (b) the publishers appearing to the Secretary of State to be likely to be affected.
- (8) Any power to make regulations under this Act is exercisable by statutory instrument, and no such regulations may be made unless a draft of the instrument containing them has been laid before and approved by a resolution of each House of Parliament. 25

General

9 Interpretation

- In this Act – 30
- “the 1988 Act” means the Copyright, Designs and Patents Act 1988 (c. 48);
- “database right” has the meaning given by regulation 13(1) of the Copyright and Rights in Databases Regulations 1997 (S.I. 1997/3032);
- “deposit library” means any of the British Library Board and the authorities controlling – 35
- (a) the National Library of Scotland,
- (b) the National Library of Wales,
- (c) the Bodleian Library, Oxford,
- (d) the University Library, Cambridge,
- (e) the Library of Trinity College, Dublin; 40
- “electronic publication” means an on line or off line publication including any publication in electronic form (within the meaning given by section 178 of the 1988 Act);
- “film” has the meaning given by section 5B of the 1988 Act;

“medium” means any medium of publication, including in particular any form of on line or off line publication;

“prescribed” means prescribed by regulations made by the Secretary of State;

“publication” and related expressions, in relation to a work, have the meaning given by section 175(1) of the 1988 Act; 5

“publication right” has the meaning given by regulation 16(1) of the Copyright and Related Rights Regulations 1996 (S.I. 1996/2967);

“sound recording” has the meaning given by section 5A of the 1988 Act.

10 Consequential amendment, repeals and revocation 10

(1) The provisions listed in the Schedule are repealed or revoked to the extent specified.

(2) Section 5 of the National Library of Scotland Act 1925 (c. 73) (transfer of privilege under section 15 of the Copyright Act 1911) is amended as follows.

(3) For subsections (1) to (3) substitute – 15

“(1) Copies of legal publications delivered for the Board as the authority for the Library under section 1(1) of the Legal Deposit Libraries Act 2003 shall be transmitted by the Board to the Faculty.

(2) The Board shall cause to be inserted in the requests made for them under section 5 of that Act such legal publications as may be named in writing to them by the Faculty.” 20

(4) In subsections (4) and (5), for “law books” substitute “legal publications”.

(5) After subsection (5) add –

“(6) In this section, “publication” includes a publication made available to the public by means of an electronic retrieval system.” 25

11 Commencement and extent

(1) The preceding provisions of this Act, except so far as they confer power to make regulations, come into force in accordance with provision made by the Secretary of State by order made by statutory instrument.

(2) Different provision may be made for different purposes. 30

(3) An order under subsection (1) may not be made unless the Secretary of State has consulted the Scottish Ministers and the National Assembly for Wales.

(4) This Act does not apply to works published before the commencement of section 1.

(5) This Act extends to Northern Ireland. 35

12 Short title

This Act may be cited as the Legal Deposit Libraries Act 2003.

SCHEDULE

Section 10(1)

REPEALS AND REVOCATION

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Copyright Act 1911 (c. 46)	Section 15.
British Museum Act 1932 (c. 34)	The whole Act.
British Library Act 1972 (c. 54)	Section 4(1).
National Assembly of Wales (Transfer of Functions) Order 1999 (S. I. 1999/672)	In Schedule 2, the entry relating to the Copyright Act 1911.

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*Ordered, by The House of Commons,
to be Printed, 11th December 2003.*

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Her Majesty's Stationery Office, St. Clements House, 2-16 Colegate, Norwich, NR3 1BQ*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON: THE STATIONERY OFFICE
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx net

