

EXPLANATORY STATEMENT

COPYRIGHT REGULATIONS (AMENDMENT)

1984 No. 175

Section 249 of the Copyright Act 1968 ("the Act") empowers the Governor-General to make regulations, not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Copyright Amendment Act 1980 came into operation on 1 August 1981. It remade the library copying provisions in sections 49 and 50 and provided new copying rights for libraries in section 51A. Provisions enabling educational institutions and institutions assisting handicapped readers to copy under the statutory licence provisions in sections 53B and 53D respectively were also added.

It is a requirement of section 203A of the Act that libraries keep requests and declarations made under sections 49, 50 and 51A for the prescribed period and that educational institutions and institutions assisting handicapped readers keep records of copying done under sections 53B and 53D respectively for the prescribed period.

The prescribed period is defined in sub-section 195A(2) of the Act, as follows-

'In this Part, a reference to the prescribed retention period after the making of a copy of the whole or a part of a work that was made in reliance on section 49, 50, 51A, 53B or 53D shall be read as a reference to such period as is declared by the regulations to be the prescribed retention period for the purposes of this Part.'

The Copyright Regulations provide in regulation 25A that-

'The prescribed retention period for the purposes of Part X in relation to a copy of the whole or a part of a work is a period of 3 years after the making of that copy in reliance on section 49, 50, 51A, 53B or 53D, as the case requires, of the Act.'

New Regulation 2 amends Regulation 25A to extend the period from 3 to 4 years.

Sections 53B and 53D of the Act make provision for a period under which remuneration may be claimed by copyright owners for copying by educational institutions and institutions assisting handicapped readers.

Section 53B of the Act provides in so far as it is relevant that-

'(11) Where copies of the whole or a part of a work, not being copies stated in the record to be copies to which sub-section (9) or (10) applies, are made by or on behalf of the body administering an educational institution and, by virtue of this section, the making of those copies does not infringe copyright in the work, that body shall, if the owner of the copyright in the work makes a request, in writing, at any time during the prescribed period after the making of the copies, for payment for the making of the copies, pay to the owner such an amount by way of equitable remuneration for the making of those copies as is agreed upon between the owner and the body or, in default of agreement, as is determined by the Copyright Tribunal on the application of either the owner or the body.'

Section 53D of the Act provides in so far as it is relevant that-

'(10) Where a handicapped reader's copy of the whole or a part of a work is made by or on behalf of the body administering an institution assisting handicapped readers and, by virtue of this section, the making of that copy does not infringe copyright in the work, that body shall, if the owner of the copyright in the work makes a request, in writing, at any time during the prescribed period after the making of the copy, for payment for the making

of the copy, pay to the owner such an amount by way of equitable remuneration for the making of that copy as is agreed upon between the owner and the body, or, in default of agreement, such amount as is determined by the Copyright Tribunal on the application of either the owner or the body.'

The prescribed period for the purposes of these provisions is set out in the Copyright Regulations. Sub-regulation 5A(4) provides that-

'For the purposes of sub-section 53B(11) or 53D(10) of the Act, the prescribed period is 3 years'

New Regulation 1 amends Regulation 5A(4) to extend the period from 3 to 4 years.

The purpose of these amendments to the Regulations is to provide copyright owners with additional time to inspect copying records and make claims for remuneration in respect of copying by educational institutions and institutions assisting handicapped readers once the Copyright Tribunal determines a royalty rate.

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