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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

**The Legal Deposit Libraries (Non-  
Print Works) Regulations 2013**

**PART 4**

**Permitted activities**

**Use etc. of relevant material by deposit libraries**

- 19.** A deposit library may transfer or lend relevant material to any other deposit library.
- 20.** A deposit library may use relevant material for the purposes of—
- (a) reviewing and maintaining the relevant material, and
  - (b) the deposit library's own non-commercial research (whether the subject matter of the research is the permanent collection or not).
- 21.** The National Library of Scotland may permanently transfer any relevant material that is an off line legal publication to the Faculty of Advocates.
- 22.** The National Library of Scotland may transfer or lend any relevant material that is an on line legal publication to the Faculty of Advocates.

**Reader access to relevant material**

- 23.** A deposit library must ensure that only one computer terminal is available to readers to access the same relevant material at any one time.
- 24.** In the case of relevant material which is work published on line, at least seven days must elapse from the date of delivery of that relevant material to the deposit library before a reader may be permitted to view it.
- 25.—**(1) A copyright owner or database right owner in relation to relevant material may make a request in writing to a deposit library to withhold access to that relevant material from readers for a specified period of time.
- (2) The deposit library receiving the request must comply with that request if the following conditions are met —
- (a) the period specified in the request does not exceed three years from the date on which the request is made;
  - (b) the deposit library is satisfied on reasonable grounds that, for the period specified in the request, viewing of the relevant material by a reader would, or would be likely to, unreasonably prejudice the interests of the person making the request.
- (3) The entitlement to make a request under paragraph (1) includes an entitlement to make subsequent requests, and (subject to paragraph (4)) a deposit library must comply with a subsequent request if the conditions in paragraph (2) are met in relation to that request.

(4) If a subsequent request seeks to extend the specified period of time relating to an earlier request made under paragraph (1), that subsequent request must be made at least one month before the specified period expires.

### **Reader access to relevant material: visually impaired persons**

**26.—**(1) A deposit library may make and supply for use on its premises accessible copies of relevant material for a visually impaired person if copies of the relevant material are not commercially available in a form that is accessible to the visually impaired person.

(2) Paragraph (1) does not apply in relation to relevant material that is a database in which copyright or database right subsists.

(3) A deposit library must ensure that only one reader uses an accessible copy of the same relevant material made under this regulation at any one time.

(4) An accessible copy made under paragraph (1) must be accompanied by—

- (a) a statement that it is made under this regulation; and
- (b) a sufficient acknowledgement.

(5) A deposit library entitled to make accessible copies under paragraph (1) may hold an intermediate copy of the relevant material which is necessarily made during the production of the accessible copies, but only—

- (a) if and so long as the deposit library continues to be entitled to make accessible copies of that relevant material; and
- (b) for the purposes of the production of further accessible copies.

(6) A deposit library may lend or transfer the intermediate copy to another deposit library which is entitled to make accessible copies of the relevant material under paragraph (1) provided that the intermediate copy is used only for the purposes of the production of further accessible copies.

(7) A deposit library must—

- (a) keep records of accessible copies made under this regulation and of the persons to whom they are supplied;
- (b) keep records of any intermediate copy lent or transferred under this regulation and of the deposit libraries to whom it is lent or transferred;
- (c) allow a copyright owner or a person acting for a copyright owner, on giving reasonable notice, to inspect the records at any reasonable time.

(8) Within a reasonable time of making an accessible copy under paragraph (1) or lending or transferring an intermediate copy under paragraph (6), the deposit library must notify—

- (a) each representative body; or
- (b) if there is no such body, the copyright owner.

(9) A representative body is a body which—

- (a) represents particular copyright owners, or owners of copyright in the type of copyright work concerned; and
- (b) has given notice to the Secretary of State of the copyright owners, or the classes of copyright owner, represented by it.

(10) The requirement to notify the copyright owner under paragraph (8) does not apply—

- (a) if it is not reasonably possible for the deposit library to ascertain the name and address of the copyright owner; or

- (b) (where there is more than one copyright owner of the work to which the notification relates) in respect of those persons for whom it is not reasonably possible for the deposit library to ascertain their names and addresses.
- (11) In this regulation—
- (a) “accessible copy” and “visually impaired” have the same meaning as in section 31F of the Copyright, Designs and Patents Act 1988(1) (“the 1988 Act”);
  - (b) “database” has the same meaning as in section 3A of the 1988 Act;
  - (c) “sufficient acknowledgement” has the same meaning as in section 178 of the 1988 Act.

### **Supplying copies for research etc.**

**27.**—(1) A deposit library may, if the conditions set out in paragraph (2) are met, produce and supply to a person a copy of relevant material.

- (2) Those conditions are that—
- (a) in relation to relevant material in which database right does not subsist, the deposit library is satisfied that the copy is required by that person for the purposes of non-commercial research or private study, criticism or review or reporting current events, parliamentary or judicial proceedings or a Royal Commission or statutory inquiry and will not be used for any other purpose;
  - (b) in relation to relevant material in which database right subsists, the deposit library is satisfied that the copy is required by that person for the purposes of parliamentary or judicial proceedings or a Royal Commission or statutory inquiry and will not be used for any other purpose;
  - (c) that person has delivered to the deposit library a signed declaration in writing in relation to the relevant material substantially in accordance with the Form in the Schedule to these Regulations;
  - (d) in relation to a copy of relevant material required for the purposes of non-commercial research or private study, the deposit library is satisfied that the requirement of the person requiring the copy is not related and similar to that of another person.
- (3) For the purposes of paragraph (2)(d)—
- (a) requirements shall be regarded as similar if the requirements are for copies of substantially the same relevant material at substantially the same time and for substantially the same purpose; and
  - (b) requirements of persons shall be regarded as related if those persons receive instruction to which the relevant material is relevant at the same time and place.
- (4) Unless the deposit library is aware that the signed declaration delivered under paragraph (2)(c) is false in a material particular, the deposit library may rely on it in order to determine whether a copy is required for any of the purposes specified in paragraph (2)(a) or 2(b) and may rely on it in relation to paragraph (2)(d).

**28.**—(1) The supply by a deposit library of a copy of relevant material under regulation 27 is subject to the following provisions of this regulation.

(2) Where the relevant material is capable of being supplied in print, a deposit library must supply a copy of the relevant material in print unless the copyright owner or database right owner (as the case may be) has given permission for a copy to be supplied in a medium other than print in which case it may be supplied in that medium.

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(1) 1988 c.48.

(3) Where the relevant material is not capable of being supplied in print, a deposit library may only supply a copy of the relevant material in a medium other than print if the copyright owner or database right owner (as the case may be) has given permission for the deposit library to supply a copy in that medium.

(4) In relation to a copy of relevant material required for the purposes of non-commercial research or private study—

- (a) a deposit library must not supply a person with more than one copy of the same relevant material;
- (b) the copy of the relevant material supplied by a deposit library must not represent more than a reasonable proportion of the relevant material of which the element copied forms a part;
- (c) if the relevant material being copied is an article in a periodical, a deposit library must not supply a person with more than one copy of that article or more than one article contained in the same edition of that periodical.

(5) The person requiring the copy of the relevant material is required to pay for that copy a sum not less than the cost (including a contribution to general expenses) attributable to its production.

#### **Copying relevant material for the purposes of preservation**

**29.**—(1) A deposit library may copy relevant material if the copy is made in any of the circumstances falling within paragraph (2).

(2) The circumstances are that the copy is made (whether from the relevant material itself or from a copy made by the deposit library by virtue of this regulation) in order—

- (a) to preserve or replace the relevant material by placing the copy in the permanent collection in addition to or in place of the relevant material;
- (b) to replace the relevant material in the permanent collection of another deposit library if that relevant material has been lost, destroyed or damaged.

(3) A copy may be made by virtue of this regulation in a different medium or format from the relevant material if the deposit library considers the change is necessary or expedient for the purpose for which the copy is made.

(4) Paragraph (1) does not apply if database right subsists in the relevant material.

#### **Adapting relevant material for the purposes of preservation**

**30.**—(1) A deposit library may adapt relevant material if the adaptation is made in any of the circumstances falling within paragraph (2).

(2) The circumstances are that the adaptation is made (whether from the relevant material itself or from a copy made by the deposit library by virtue of regulation 29) for the following purposes—

- (a) to preserve or replace the relevant material by placing the adaptation in the permanent collection in addition to or in place of the relevant material;
- (b) to replace the relevant material in the permanent collection of another deposit library if that relevant material has been lost, destroyed or damaged.

(3) An adaptation may be made by virtue of this regulation in a different medium or format from the relevant material if the deposit library considers the change is necessary or expedient for the purpose for which the adaptation is made.

(4) Paragraph (1) does not apply if database right subsists in the relevant material.

### **Disposing of relevant material**

**31.**—(1) A deposit library may dispose of relevant material, or copies or adaptations of relevant material, by destroying it but must retain at least one version of any relevant material.

(2) The version or versions retained by a deposit library must be the version or versions which the deposit library considers most suitable for the preservation of the relevant material.