



# Copyright Amendments 2017

## Disability access and other measures

### Overview

The Act was passed by Federal Parliament on 15 June 2017. Provisions relating to disability access and preservation will take effect 23 December 2017. Provisions relating to duration of copyright for unpublished material will take effect 1 January 2019.

The Act makes a number of amendments to the Copyright Act relating to:

- use of copyright material by persons with a disability;
- preservation exceptions for libraries, archives and key cultural institutions;
- simplified statutory licensing for educational institutions;
- duration of copyright in unpublished material;
- the exam copying exception.

### Disability access provisions

The Act introduces a new definition of 'person with a disability' to account for a wider range of disabilities and learning difficulties. The new definition covers all persons with a disability that causes difficulty reading, viewing, hearing or comprehending copyright material.

Educational institutions such as Curtin will come under the new definition of an 'organisation assisting persons with a disability', increasing the University's scope to provide copyright material to people with disabilities in an accessible format without infringing copyright.

The Act also introduces a new fair dealing exception for access to copyright material by persons with a disability. The fair dealing exception will permit, for instance, enlarging text and graphics, and making changes to the format. The Act also fulfils the provisions of the Marrakesh Treaty, which aims to facilitate the import and export of accessible format copies of published works.

### Preservation exceptions

The Act consolidates and streamlines the exceptions allowing libraries and archives to make copies of copyright material for preservation purposes. For example libraries and archives are permitted to make multiple preservation copies, and make available electronic preservation copies to the public without infringing copyright. Libraries and archives are no longer required to wait until material has been damaged or suffered deterioration before making preservation copies.

## Statutory licensing for educational institutions

The Act simplifies the statutory licensing provisions in the Copyright Act for educational institutions. Prescriptive details surrounding statutory licences have been removed from the Act, allowing for these to be negotiated via agreements between the sector and the relevant collecting societies (e.g. Screenrights, Copyright Agency).

## Duration of copyright in unpublished material

Under the previous framework, the Copyright Act had different rules for published and unpublished materials, whereby unpublished materials could remain in copyright in perpetuity. The Act introduces a new standard term of protection of copyright materials: for the 'life of the author plus 70 years', which does not differentiate between published and unpublished works.

The standard term will be effective for works created before 1 January 2019 that remain unpublished by that date.

The amendments contain in the Act also provide that, where the creator of copyright material cannot be identified, the standard term of protection will be '*date made* plus 70 years'. However, if the material is made public within 50 years of its making, copyright subsist from the *date the material was first made public* plus 70 years.

## Exam copying exception

The exam copying exception previously applied to face-to-face exams only, but now also applies to online exams. The exception has been extended to apply to *all* copyright material (including audio-visual content).

## What is not included?

There was some consideration of including universities in the definition of '**safe harbours**' (this would mean the university is not liable for any copyright infringement by individual staff or students). However this amendment was contentious and was removed from the final version of the Act.

There continues to be discussions about introducing **fair use** into Australian legislation. This is also contentious, and while recently recommended by the Productivity Commission in its recent report into IP arrangements, may take time to be adopted.

## Further questions

If you want further detail on any of these amendments please contact the Library Copyright Team ([Library-Copyright@curtin.edu.au](mailto:Library-Copyright@curtin.edu.au)). We are in the process of updating the content on the Library Copyright website (<http://copyright.curtin.edu.au>) to reflect these changes.