

NEW AUSTRALIAN COPYRIGHT LAWS

OFFICIAL COPYING OF LIBRARY AND ARCHIVE MATERIAL

Definitions and amendments clarify the circumstances in which official copying of library and archive material can occur.

New definitions

New definitions of **'library'** in sub-ss 49(9) and 50(10) clarify the types of library to which each provision applies. Libraries can rely on the exceptions in ss 49 and 50 if their collections (in whole or in part) are directly accessible to the public or other library users through the library's participation in an inter-library loan system with public libraries.

The new definition of **'administrative purposes'** clarifies when a reproduction in a library or archive collection may be made for administrative purposes. The term is defined as 'purposes directly related to the care or control of the collection' which includes educating and training staff and volunteers but not reproductions made to expand a collection to make more copies available for users.

An inclusive definition of **'officers of the library or archives'** in sub-s 51A(6) clarifies that it includes volunteers assisting with the care or control of the collection.

Reproduction from a preservation copy

A preservation copy made under sub-s 51A(1) may be used to make a reproduction for supply to a user under s 49 or to another library under s 50.

Reasonable portion

The meaning of 'reasonable portion' in ss 49 and 50 is now determined solely by reference to the definition of **'reasonable portion'** in sub-ss 10(2) or (2A), and not by the ordinary meaning of the term.

Commercial availability test

Guidance in determining a 'reasonable time' for the purpose of the commercial availability test is provided in ss 49 and 50. A library or archive should not request a copy to be made if a new, or an electronic, reproduction of the work can be obtained within a reasonable time at an ordinary commercial price.

Distinction between different editions of work

New sub-s 51A(4) permits a library or archive to make a reproduction of a published work for preservation even if another edition can be obtained in a reasonable time at an ordinary commercial price. A librarian must make a declaration stating why the reproduction should be made.

This fact sheet provides general information only and is not a substitute for professional legal advice.



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