

ILL and the copyright law amendments

AMENDING LEGISLATION has passed through the Senate which will dramatically alter the Copyright Law for libraries and educational institutions. This article discusses only the amendments which affect inter-library loans.

The amendments follow the Franki recommendations fairly closely. No copyright royalties will be paid in respect of inter-library loan copying. A library may supply to another library on inter-library loan a copy of an article in a periodical publication, or the whole or part of a literary, dramatic or musical work other than an article contained in a periodical publication.

a) for the purpose of including a copy in the collection of the first mentioned library or
b) for the purpose of supplying a copy to a person who has made a request for the copy under Section 49 (the section which deals with supplying copies to individuals for research or study).

The limitations are:

1 Not more than one article from the same periodical publication (now defined as a single issue of a periodical) 'for the same purpose' unless the articles relate to the same subject matter. However, it appears that another article may be copied in response to another request.

2 Before more than a 'reasonable portion' ('one chapter or one tenth of the pages') can be supplied an officer of the requesting library must make a Declaration that a copy (other than a second-hand copy) of the work could not be obtained within a reasonable time at an ordinary commercial price.

In the case of libraries requesting a copy for their own collections of other than a periodical article, that is of any part or the whole of a literary, dramatic or musical work, a similar declaration to that in 2 (above) must be made.

Declarations, in a form as yet unspecified, must be made by users requesting copies, saying that they have not previously been supplied with a copy, and that it will only be used for research or study. Libraries must also make Declarations when they are requesting a copy for inclusion in their own collections and have previously been supplied with a copy, stating that the copy has been lost, stolen or damaged.

Copies of unpublished manuscripts or theses held by a library of a university or other similar institution or in an Archives can be supplied to another library to be held for the purpose of research.

The price of this greater legalised freedom to copy for inter-library loan is the keeping of copies of Declarations by the requesting library. These must be kept in chronological order and made available for inspection by copyright owners. The period for which they are to be kept will probably be six years. There are criminal penalties for not preserving them or for not keeping them in chronological order or for failing to make them available.

Under the previously proposed amendments, the supplying library would have had to receive the Declaration relating to an inter-library loan along with a request in writing before supplying the loan. The new amendments abandon the requirement that a request be received in writing thus permitting telephone, telex, or terminal to computer terminal requests.

Declarations need not be forwarded to the supplying library. The entire onus for any breach of copyright in relation to inter-library loans falls on the requesting library which must preserve the Declarations in chron-

ological order. There is a slight complication arising from the requirement that all copies must be marked with the date and the name of the body on whose behalf the copy was made. In all other cases the body is the library doing the copying. In the case of inter-library loans it appears that the intention of the legislation is that the body to be named in the notation will be the requesting library, but this is to be inferred from the legislation; it is not explicitly stated.

AACOBS argued that it was unnecessary to keep Declarations for inter-library loan copies of single articles or 'reasonable portions' of works since these were by definition not subject to royalty. The Attorney-General's Department held that this would be unfair to copyright owners who would be unable to check on the amount of such copying. The concession gained is that the Declarations are

to be kept in chronological not author order. There is provision for particular journals to be exempted from copying by regulation; it is understood that in such cases the copyright owner would need to prove that sales were being significantly affected by photocopying for inter-library loan.

AACOBS also attempted to have removed the limitation to one article from 'the same periodical publication' (unless two or more articles deal with the (undefined) same subject matter). This argument was also rejected by the Attorney-General's Department on the basis of possible damage to the interests of copyright-owners but AACOBS' success in obtaining a definition of 'same periodical publication' as one issue of a periodical, limits the extent of this restriction.

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Library Association of Australia ANNUAL GENERAL MEETING Notice of Meeting

The 41st Annual General Meeting of the Library Association of Australia will be held in The Galleries, State Library of New South Wales on Friday, 31 October 1980, commencing at 6pm.

Agenda

- 1 Notice convening meeting.
- 2 Apologies.
- 3 Minutes of 1979 Annual General Meeting.
- 4 Presidential Address.
- 5 Presentation of Awards.
- 6 Presentation of Annual Report and Balance Sheet, and Income and Expenditure Account.
- 7 Appointment of auditors.
- 8 General business.

Motions for discussion

- 1 Moved that General Council give serious consideration to make provision for members to pay annual membership fees in two instalments. (NSW Branch.)
- 2 Moved that General Council consider reinstating a special fee category for student members, and that this fee be equivalent to two-thirds of the base membership fee, with the retention rate of members in this category being monitored for a period of two years. (NSW Branch.)
- 3 Moved that the General Council investigate the feasibility of LAA head office organising and implementing the sale of special LAA calendars, diaries, notebooks, bookmarks and other suitable items as an income generating activity; and that the results of such an investigation be reported in *InCite* within 12 months from the date of this meeting. (NSW Branch.)
- 4 Moved that in future the date of the Annual General Meeting be announced no later than two months before the date finally agreed on, and as early in the year as practicable. (NSW Branch.)
- 5 Moved that General Council make an early decision on the city in which the 1988 Biennial Conference of the LAA will be held. (NSW Branch.)

Rules of meeting

- 1 When addressing the Chair, the person desiring recognition will properly identify himself, giving his name and library. Only LAA members may speak.
- 2 Debate shall be limited to three minutes for each speaker: no speaker may have the floor twice on the same question until all who wish to speak have spoken.
- 3 Motions. All main motions and amendments shall be written in triplicate and signed by the mover and seconder (forms will be available at the AGM); one copy to be delivered to the Chair and one to the projectionist, the third being retained by the mover.
- 4 By general consent, if there be no objection, or be a two-thirds vote, any rule governing the debate may be suspended.
- 5 Proxies. To be valid proxies must be in the form set out in By-law 15 and in the hands of the General Secretary (Mr Euan Miller) by 6pm Wednesday, 29 October 1980.
- 6 The Chairman's rulings on procedural matters may not be debated. The reference for rules and their interpretation by the Parliamentarian will be Joske's *The law and procedure at meetings in Australia and New Zealand*, 6th ed, 1976. A Parliamentarian will be appointed to advise the Chairman on procedure and to assist in determining the results of a poll of members present if necessary.