

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

COPYRIGHT AMENDMENT BILL 1988

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Amendments to be moved on behalf of the Government)

(Circulated by authority of the Attorney-General,
the Honourable Lionel Bowen, MP)

COPYRIGHT AMENDMENT BILL 1988

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GENERAL OUTLINE

These amendments will amend the Copyright Amendment Bill 1988 to:

- . make it clear that once a performer has authorised a sound recording or film of a performance, his/her further consent is not required in respect of the making of any copies of the sound recording or film;
- . provide a limited exception to the requirement to obtain a performer's consent when using a sound recording in the sound-track of a film where the sound-track is used for the purposes of broadcasting; and
- . make other miscellaneous clarifying amendments.

FINANCIAL IMPACT

These amendments will have no financial impact on Commonwealth revenue or expenditure.

EXPLANATORY MEMORANDUM

Amendments Nos. (1) & (4)

1. The word "recording" in the definitions of "direct" and "indirect" in proposed s.248A(1) will be replaced with the words "sound recording or cinematograph film" to clarify the operation of these definitions especially where the expressions are referred to in the definition of "exempt recording".

Amendment No. (2)

2. Proposed para.(j) in the definition of "exempt recording" in proposed s.248A(1) will be amended by the addition of the word "reasonably" in order to clarify that the relevant belief must be a reasonable one.

Amendment No. (3)

3. A new paragraph will be added to the definition of "exempt recording" in proposed s.248A(1) to make it clear that copies of authorised recordings may be made (other than for use in a sound-track) or broadcast without the further consent of the performer(s). The provision would enable copies of copies to be made from authorised recordings.

Amendment No. (5)

4. A new s.248GA will be inserted to provide a limited exception to the requirement under proposed s.248G(2)(c) to obtain a performer's authority to use an authorised sound recording in the sound-track of a film.
5. The exception will enable a broadcaster to make a copy of a sound recording for use in a sound-track which is itself made solely for the purpose of use in a broadcast. The sound-track must be destroyed or delivered to the Australian Archives within a period of 12 months from the date of the first broadcast incorporating the sound-track.

6. The new provision effectively mirrors the equivalent copyright "ephemeral copying" exception in s.107 of the Copyright Act 1968 which allows the making of a copy of a sound recording for the purpose of broadcasting.

Amendment No. (6)

7. Proposed s.248P(3), which provides a counterpart criminal offence to the unauthorised use provision in proposed s.248G(2)(c), will be replaced by a new subsection to take account of the proposed new exceptions to unauthorised use in s.248GA.





