

1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE HOUSE OF REPRESENTATIVES

COPYRIGHT AMENDMENT BILL 1991

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Amendments to be moved on behalf of the Government  
to amendments made by the Senate)

(Circulated by authority of the Attorney-General  
the Honourable Michael Duffy, MP)

## **COPYRIGHT AMENDMENT BILL 1991**

(Amendments to be moved on behalf of the Government to amendments made by the Senate.)

### **GENERAL OUTLINE**

These amendments will amend the Copyright Amendment Bill 1991, as amended by the Senate amendments, to -

- . make it clear that the only orders for books for which importation is permitted are written orders and 'verifiable' telephone orders;
- . amend proposed new ss.44A(3A) and 112A(3A) concerning library orders to make them consistent with the formula of new ss.44A(3) and 112A(3) concerning individual customers' orders. This will ensure that an order by a library must have been placed with the importer, it must have been in writing or a verifiable telephone order, it must have included a statement that the library does not intend to use the books for commercial purposes and the importation must be for the purpose of filling the order from the library; and
- . effect a number of additional technical amendments to ensure consistency in drafting.

### **FINANCIAL IMPACT**

These amendments will have no direct financial impact on Commonwealth expenditure.

## NOTES ON THE AMENDMENTS

### Amendment No.1

1. Amendment No.1 will amend new clause 3 of the Bill in two ways. First, by reinserting a reference to proposed s.44A and, second, by substituting the word 'importer' for 'person'. It is necessary for the Bill to restate and clarify that s.37 of the Act (which deals with infringement of copyright by importation of copyright materials for commercial purposes) is subject to the exemption being introduced by the new s.44A. The reference to 'importer' instead of 'person' in the proposed 'constructive knowledge' amendment is a clarifying amendment.

### Amendment No.2

2. Amendment No.2 will amend new clause 4 of the Bill in the same two ways as amendment No.1. It is necessary for the Bill to restate and clarify that s.38 of the Act (which provides for copyright infringement by undertaking certain commercial dealings with unlicensed imported copyright materials) is also subject to the new s.44A.

### Amendment No.3

3. Amendment No.3 will amend new s.44A(3) by omitting a reference to 'verifiable order' and substitute a 'written order or a verifiable telephone order'. It also inserts a reference to the need to make a 'verifiable' statement. These are clarifying amendments which will ensure that the only orders for which importation is permitted are written orders and telephoned orders. Further, for telephoned orders, the requirement of verifiability must apply to not only the order but also the statement of intended use.

Amendment No.4

4. Amendment No.4 will amend proposed new s.44A(3A) by omitting the words between "a number ... organisation" and substituting new words to align it more closely with the wording of new s.44A(3) so that the provisions are consistent. That is, the order by the library must have been placed with the importer, the order must have been either in writing or a verifiable telephone order, in either case there must have been a statement that the library does not intend to use the books ordered for commercial purposes and the importation must be for the purpose of filling the order from the library. The amendment also allows importation up to but not exceeding the number of copies of the book specified in the order. This overcomes the limitation under the wording of the Senate amendment of having to import exactly the same number as ordered.

5. Amendment No.4 also inserts proposed new s.44A(3B) which provides that an order or statement under s.44A(3) or s.44A(3A) is taken to be 'verifiable' if the person who takes the order or to whom the statement is made makes a written note of the details of the order or statement at the time or immediately after the order is taken or the statement is made.

Amendments Nos.6, 7, 8 and 9

6. The proposed amendments to amendments Nos.6, 7, 8 and 9 apply to copyright in the published edition of a work and correspond to amendments Nos.1, 2, 3 and 4, respectively, which apply to copyright in works.

