



BERMUDA

LEGAL DEPOSIT ACT 2008

2008 : 30

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WHEREAS it is expedient to enact the Legal Deposit Act 2008.

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Short title

1 This Act may be cited as the Legal Deposit Act 2008.

Definitions

2 In this Act—

“Director of Libraries and Archives” means the public officer appointed under section 5(2) of the Bermuda National Library Act 1946 and under section 5(1)

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of the Bermuda Archives Act 1974 to be responsible for the administration of the Department of Libraries and Archives;

“electronic” includes electrical, digital, magnetic, optical, electromagnetic, biometric and phototonic;

“Head Librarian” *[deleted]*

“Minister” means the Minister responsible for the Bermuda National Library and the Bermuda Archives;

“non-printed material” means information in the form of a document, data, text, images, sound or speech that is recorded or stored by means of a recording device, computer or other electronic device, and includes—

(a) film, micro-film, audio-visual and sound recordings, multimedia kits, computer optical discs, floppy discs, compact discs, CDROMs, DVDs, websites, PDF files, and

(b) any material that is prescribed as being included in this definition;

“prescribed” means prescribed by regulations made under this Act;

“printed material” includes—

(a) books, newspapers, magazines, periodicals, pamphlets, calendars, directories, handbooks, guides, sheet music, maps, plans, charts, tables and photographs, and

(b) any material that is prescribed as being included in this definition;

“publication” means any printed material or non-printed material but does not include—

(a) trade or business circulars, advertisements, price lists, prospectuses, annual reports and similar business or legal documents; and

(b) material that is prescribed as being excluded from this definition;

“publish” means to print or produce a publication for distribution to the public generally by sale or otherwise, including making it available to the public on the Internet.

[Section 2 definition “Director of Libraries” inserted and “Head Librarian” deleted by 2014 : 23 s. 7 effective 29 July 2014; Section 2 definitions “Director of Libraries” and “Minister” amended by 2018 : 21 s. 2 effective 28 May 2018]

Delivery of copies of publications

3 (1) This section applies to—

(a) a person who publishes a publication in Bermuda; and

(b) a person who is resident in Bermuda, or whose principal place of business is in Bermuda, and who publishes, or commissions the publishing of, a

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publication outside Bermuda for distribution or making available in Bermuda.

(2) Subject to subsection (5), every person who publishes a publication shall within seven days after the date of publishing it deliver a copy of the publication, at their own expense, to the Director of Libraries and Archives for deposit in the Bermuda National Library.

(3) The copy shall be delivered in the medium in which it is published, unless another medium is prescribed.

(4) The copy shall be of the same quality as the best copies of the publication that are, at the time of delivery, distributed or made available to the public in Bermuda.

(5) The following publications are not required to be delivered for deposit in the National Library unless requested in writing by the Director of Libraries, in which case a copy of the publication shall be delivered to the Director of Libraries within seven days after the date of the request—

- (a) reissues or portions of publications that are substantially the same as copies already deposited;
- (b) programs of activities or events;
- (c) timetables of transport services;
- (d) calendars, diaries and agendas;
- (e) directories and handbooks;
- (f) press releases and circulars;
- (g) newsletters published by associations and organisations primarily for their members;
- (h) minutes of meetings and by-laws;
- (i) posters and banners;
- (j) patterns, models, plans and blueprints;
- (k) postcards;
- (l) school yearbooks;
- (m) games;
- (n) bulletin boards, e-mails and deliberations of electronic discussion groups,;
- (o) websites, including portals, personal websites, service sites, intranets and websites consisting primarily of links to other sites; and
- (p) any other publications that are prescribed for the purposes of this subsection.

[Section 3 subsections (2) and (5) amended by 2014 : 23 s. 7 effective 29 July 2014; Section 3 subsection (2) amended by 2018 : 21 s. 2 effective 28 May 2018]

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Non-printed material

4 (1) In the case of non-printed material, a person who is required to deliver a copy of a publication under section 3 shall deliver, with the copy of the publication, a copy of any computer program and any information that is required by the Director of Libraries and Archives in order to access the publication, and a copy of any manual and other material that accompanies the publication and is distributed to or made available to the public.

(2) Where non-printed material is published in different formats, the copy shall be delivered in the format specified by the Director of Libraries and Archives.

[Section 4 subsections (1) and (2) amended by 2014 : 23 s. 7 effective 29 July 2014; Section 4 amended by 2018 : 21 s. 2 effective 28 May 2018]

Deposit in the Bermuda National Library

5 (1) When a copy of a publication is delivered to the Director of Libraries and Archives under section 3, the Director of Libraries and Archives shall acknowledge receipt of the copy and deposit it in the Bermuda National Library.

(2) Copies of publications that are deposited in the National Library are the property of the Crown and form part of the collection of the National Library.

[Section 5 subsection (1) amended by 2014 : 23 s. 7 effective 29 July 2014; Section 5 subsection (1) amended by 2018 : 21 s. 2 effective 28 May 2018]

Application to court

6 (1) Without prejudice to section 8, if a person fails to comply with section 3 or 4, the Minister may, in accordance with rules of court, apply to the Supreme Court for an order requiring the person to comply with section 3 or 4, as the case may be.

(2) If, on an application under subsection (1), it appears that the person is unable to comply with section 3 or 4, as the case may be, or that it is not appropriate to make an order under subsection (1), the court may instead make an order requiring the person to pay to the Bermuda National Library an amount equal to the cost to the National Library of making good the failure of the person to comply with section 3 or 4, as the case may be.

Restrictions in relation to publications

7 No person shall do any of the following things in relation to a copy of a publication that has been deposited in the National Library under this Act ("the deposited copy")—

- (a) make a copy of the deposited copy (other than a temporary copy where this is necessary for the purpose of a person using the deposited copy, or a copy by the National Library for archival purposes or to replace the deposited copy where it needs to be repaired or replaced);
- (b) adapt a computer program or database that is contained in the deposited copy;
- (c) lend the deposited copy to a third party (other than lending by the National Library to a person for use by the person on the premises of the National Library);

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- (d) transfer the deposited copy to a third party;
- (e) damage or dispose of the deposited copy; or
- (f) remove the deposited copy from the National Library.

Offence and penalty

8 Any person who contravenes section 3, 4 or 7 commits an offence punishable on summary conviction by a fine of \$250.

Delivery not breach of contract or infringement of copyright

9 (1) The delivery by a person, under section 3, of a copy of a publication does not constitute—

- (a) a breach of any contract relating to any part of the publication to which that person is a party; or
- (b) an infringement of any copyright, publication right or database right in relation to any part of the publication or any patent.

(2) Subsection (1) applies to the delivery, under section 4, of a copy of a computer program, information, manual or other material referred to in that section in the same manner as it applies to the delivery of a copy of a publication under section 3.

Regulations

10 (1) The Minister may make regulations prescribing—

- (a) material that is to be included in the definition “printed material” or the definition “non-printed material” in section 2;
- (b) material that is to be excluded from the definition “publication” in section 2;
- (c) circumstances in which publications are, or are not, to be treated as published, distributed or made available in Bermuda for the purposes of section 3(1);
- (d) the medium in which publications are to be delivered, for the purposes of section 3(3);
- (e) publications that are required, under section 3(5)(p), to be delivered for deposit only if requested by the Director of Libraries and Archives; and
- (f) any other requirements regarding the delivery of publications.

(2) Regulations made under this section may be made in respect of publications generally, in respect of classes of publications or in respect of particular publications.

(3) The negative resolution procedure applies to regulations made under this section.

[Section 10 subsection (1)(e) amended by 2014 : 23 s. 7 effective 29 July 2014; Section 10 subsection (1)(e) amended by 2018 : 21 s. 2 effective 28 May 2018]

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Binding on Crown

11 This Act, except sections 6 and 8, binds the Crown.

Repeal

12 Section 5 of the Printed Publications Act 1971 is repealed.

[Assent Date: 21 July 2008]

[Operative Date: 21 July 2008]

[Amended by:

2014 : 23

2018 : 21]