

12 February 2016

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**Joint submission: Educational statutory licence provisions of the *Copyright Amendment (Disability Access and Other Measures) Bill 2016* (Bill)**

This joint submission is made by the Copyright Agency, the Copyright Advisory Group to the COAG Education Council, Screenrights and Universities Australia (**the Stakeholders**). This submission covers the educational statutory licence provisions in the Exposure Draft. Organisations may separately submit on other aspects of the Bill.

As you would be aware, the Stakeholders met in 2015 to jointly agree an approach to implement the ALRC's recommendations in relation to simplifying and streamlining Parts VA and VB of the *Copyright Act 1968* (**Act**). An agreed draft was presented to Government in late 2015. The Stakeholders are pleased to see this agreement implemented in the Exposure Draft Bill.

While the Stakeholders are very supportive of the reforms to the educational statutory licences contained in the Bill, we have 8 drafting concerns where we believe the drafting does not completely implement the agreement between Stakeholders, or where the drafting may lead to unintended consequences. These issues are listed below:

**1. Use of the term “copying” and “reproduction” in the Bill.**

The Stakeholders note that throughout the Act, the term “reproduction” (or equivalent) is used to refer to making copies of literary, dramatic, musical and artistic works, and the term “copy” (or equivalent) is used to refer to making copies of subject-matter other than works.

The amended statutory licence provisions use the term copying to refer to both works

and subject-matter other than works. However, the Bill's update of s.200 continues to use the term "reproduction" in relation to copying works.

Stakeholders are concerned that the use of different words to refer to copying of works in the same Bill could lead to some confusion as to whether Parliament intended those words to have different meanings. While we do not believe that this is the policy intent, we submit it would be useful to clarify this intention.

The Stakeholders believe that there are two possible approaches to solving this issue:

Option 1: to simplify the use of "copy" and "reproduction" (and related uses of those terms) throughout the Act to ensure all activities that invoke the "copy" and "reproduction" rights are described by the term "copy".

Option 2: to clarify in the Bill that for the purposes of the statutory licence provisions, the term "copying", when used in the context of works, should have the same meaning as the term "reproduction" elsewhere in the Act.

## **2. Proposed s.113P(2)(b)(iv) - ensuring the technology neutral operation of the statutory broadcast licence to electronically transmitted broadcast content.**

The stakeholders are concerned that there is a possible unintended consequence from the drafting in proposed s113P(2)(b), and in particular the language in (ii) "a work, sound recording or cinematograph film included in a broadcast). It potentially defines the scope of the licence by reference to the copyright material that is included in a broadcast, instead of directly linking the capacity to copy and communicate directly to the broadcast (including any underlying copyright material).

For example, if the film *Gallipoli* is broadcast by a free-to-air broadcaster, it is intended that educational institutions can copy and communicate a copy of that film as broadcast (including all underlying copyright material), so long as that copy was derived from the broadcast directly (or from one of the defined technological methods to communicate the content of the broadcast, currently listed in sub-paragraphs (iii) and (iv). However, it is possible that s.113P(2)(ii) could be read to allow educational institutions to rely on the broadcast to copy a version of the film made available on an internet site such as Presto or Netflix, or even a DVD. This is not the intention.

The Stakeholders have suggested some minor drafting amendments to correct this possible interpretation, and ensure that the broadcast statutory licence applies only to material that has been broadcast, and any underlying copyright material in the content that was actually broadcast.

Also, the stakeholder draft presented to Government used the phrase "a communication by electronic transmission using the internet of the content of a broadcast at, or at substantially, the same time as the broadcast". In contrast, the Exposure Draft Bill uses the phrase (at sub-paragraph (iv)) "the content of a broadcast, if the content was electronically transmitted during the internet at, or at

substantially, the same time as the broadcast”.

The intention in making this change was to ensure that broadcast material that is also made available via electronic transmission (ie, a broadcast transmitted using the internet not the broadcasting services bands) can be included in the statutory licence. This language was designed to capture material which has been first broadcast by an Australian broadcaster, and would not include other non-broadcast internet content (such as content on online services such as YouTube, Stan or Presto).

Please see **Attachment A** for a marked up version of our suggested changes.

3. **Proposed s.113Q(3) - the phrase “(disregarding section 200AB)”.**

The Stakeholders submit that the phrase “(disregarding section 200AB)” is confusing and unnecessary, and has the potential to undermine the operation of existing s.200AB(6) in the Act in relation to the operation of s.200AB and the statutory licences. We suggest that these words be removed from proposed s 113Q(3), and that the paragraph should read:

*The copying or communication of copyright material is **licensed copying or communicating** if it does not infringe copyright in the copyright material only because of section 113P.*

[See comment below re 'licensed']

4. **Declared collecting societies and proposed definitions of “Works collecting society” and “broadcast collecting society”**

We note that the proposed s.113V provides for a single works collecting society and a single broadcast collecting society. We note that this is a departure from the current position where there is a provision for more than one society for the purposes of Part VB of the Act, but only one society for broadcasts under Part VA. To maintain the status quo, the Stakeholders propose that Division 5 be amended to provide for more than one works collecting society.

The Stakeholders submit that this can be achieved by the suggested amendments in the marked up version of the Bill at Attachment A.

For the avoidance of doubt, the Explanatory Memorandum to the Bill could provide

that the purpose is to allow for the possibility that more than one collecting society could be declared for works.

**5. Consequential amendments to the Copyright Tribunal provisions in the Act.**

As part of the stakeholder draft submitted to Government, we noted that consequential amendments would need to be made to the Copyright Tribunal provisions relating to current Parts VA and VB. These consequential amendments have not been made in the Bill. We believe that this would affect Subdivisions C and D of Part VI.

**6. Reference to “licenced” copying or communicating**

The Stakeholders suggest that all references to “licenced” copying or communicating should be replaced with “licensed” (emphasis added).

**7. Proposed section 113W(2)**

The Stakeholders submit that the word “or” between paragraphs (a) and (b) should be replaced with the word “and”.

**8. Interaction between the works and broadcast statutory licence**

In order to ensure that the statutory licences operate as intended, and ensure consistency between ss 113P and 113Q, the Stakeholders suggest that proposed section 113P(1)(b) be amended to include after existing subparagraph (b)(ii), a new subparagraph (b)(iii):

“... or  
(iii) a work included in a broadcast-related communication”.  
(this language reflects our suggested drafting explained at point 2 above).

We would be pleased to discuss any aspect of these suggestions with you.

We hope that these issues can be resolved, and these important reforms to the educational statutory licences can be implemented in 2016.

Yours faithfully

Copyright Advisory Group to the COAG Education Council  
Copyright Agency|Viscopy  
Screenrights  
Universities Australia

# EXPOSURE DRAFT

2013-2014-2015-2016

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES/THE SENATE

EXPOSURE DRAFT

## **Copyright Amendment (Disability Access and Other Measures) Bill 2016**

**No.     , 2016**

*(Communications)*

**A Bill for an Act to amend the *Copyright Act 1968*,  
and for related purposes**

EXPOSURE DRAFT



# EXPOSURE DRAFT

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1  
2 **A Bill for an Act to amend the *Copyright Act 1968*,**  
3 **and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Copyright Amendment (Disability*  
7 *Access and Other Measures) Act 2016*.

8 **2 Commencement**

- 9 (1) Each provision of this Act specified in column 1 of the table  
10 commences, or is taken to have commenced, in accordance with  
11 column 2 of the table. Any other statement in column 2 has effect  
12 according to its terms.  
13

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 and 2	The day after the end of the period of 3 months beginning on the day this Act receives the Royal Assent.	
3. Schedule 3	1 January 2018.	1 January 2018

14 Note: This table relates only to the provisions of this Act as originally  
15 enacted. It will not be amended to deal with any later amendments of  
16 this Act.

- 17 (2) Any information in column 3 of the table is not part of this Act.  
18 Information may be inserted in this column, or information in it  
19 may be edited, in any published version of this Act.

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Uses that do not infringe copyright **Schedule 1**  
Main amendments **Part 1**

## Schedule 1—Uses that do not infringe copyright

### Part 1—Main amendments

#### *Copyright Act 1968*

#### Division 4—Educational institutions—statutory licence

##### 113N Simplified outline of this Division

An educational institution may copy or communicate certain copyright material for educational purposes if the body administering the educational institution agrees to pay equitable remuneration to a collecting society.

##### 113P Copying and communicating works and broadcasts

###### *Works*

- (1) ~~Subject to subsection (2), the~~ body administering an educational institution does not infringe copyright in a work by copying or communicating the whole or a part of the work if:
- (a) a works remuneration notice in relation to the educational institution is in force; and
  - (b) the work is not:
    - (i) a computer program; or
    - (ii) a compilation of computer programs; and
  - (c) the copying or communicating occurs solely for the educational purposes of:
    - (i) the educational institution; or
    - (ii) another educational institution, if a works remuneration notice in relation to the other educational institution is in force; and

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- 1 (d) the amount of the work copied or communicated does not  
2 unreasonably prejudice the legitimate interests of the owner  
3 of the copyright; and  
4 (e) the copying or communicating complies with:  
5 (i) any relevant agreement between a works collecting  
6 society and the body administering the educational  
7 institution; and  
8 (ii) any relevant determination made by the Copyright  
9 Tribunal under subsection (4).

## Broadcasts

- 11 (2) The body administering an educational institution does not infringe  
12 any copyright in a broadcast-related communication, or in any  
13 copyright material included in a broadcast-related communication,  
14 by copying the whole or a part of a broadcast-related  
15 communication, or by communicating the whole or part of a copy  
16 made under this subsection, if:  
17 (a) a broadcasts remuneration notice in relation to the  
18 educational institution is in force; and  
19 (b) the copying or communicating occurs solely for the  
20 educational purposes of:  
21 (i) the educational institution; or  
22 (ii) another educational institution, if a broadcasts  
23 remuneration notice in relation to the other educational  
24 institution is in force; and  
25 (c) the copying or communicating complies with:  
26 (i) any relevant agreement between the broadcasts  
27 collecting society and the body administering the  
28 educational institution; and  
29 (ii) any relevant determination made by the Copyright  
30 Tribunal under subsection (4).  
31 (3) For the purposes of Part XIA, each performer of a performance  
32 included in a broadcast-related communication is taken to have  
33 authorised the copying of the performance, or communicating the  
34 performance, if subsection (2) applies to the copying or  
35 communicating.

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Uses that do not infringe copyright **Schedule 1**  
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Note: The effect of this subsection is that no right of action and no offence occurs in respect of the copy or communication under Part XIA (performers' protection).

## *Questions determined by Copyright Tribunal*

- (4) The Copyright Tribunal may determine a question relating to copying or communicating mentioned in subsection (1) or (2) if:
- (a) the relevant collecting society and the body administering the relevant educational institution fail to determine the question by agreement under subparagraph (1)(e)(i) or (2)(c)(i); and
  - (b) the society or the body applies to the Tribunal to have the Tribunal determine the question.

## *Copies and communications subsequently used for other purposes*

- (5) If:
- (a) the body administering an educational institution copies, or communicates a copy of, copyright material in accordance with subsection (1) or (2); and
  - (b) with the consent of the body administering the educational institution, the copy is:
    - (i) used for a purpose other than for the educational purposes of an educational institution; or
    - (ii) given to the body administering another educational institution, if no works remuneration notice or broadcasts remuneration notice (whichever is relevant) in relation to the other educational institution is in force; or
    - (iii) sold or otherwise supplied for a financial profit;
- subsections (1), (2) and (3) do not apply, and are taken never to have applied, to the copying or communicating.

## **113Q Remuneration notices**

- (1) A **works remuneration notice**, in relation to an educational institution, is a written notice:
- (a) that the body administering the educational institution gives to a works collecting society; and

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Schedule 1 Uses that do not infringe copyright

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- 1 (b) by which the body undertakes:  
2 (i) to pay to the society equitable remuneration for licenced  
3 copying or communicating of **relevant** works (other than  
4 works to which **subsection 113P(2)** applies); and  
5 (ii) by which the body undertakes to give to the society  
6 reasonable assistance to enable the society to collect and  
7 distribute that equitable remuneration.

8 Note: For equitable remuneration, see section 113R.

- 9 (2) A **broadcasts remuneration notice**, in relation to an educational  
10 institution, is a written notice:  
11 (a) that the body administering the educational institution gives  
12 to the broadcasts collecting society; and  
13 (b) by which the body undertakes:  
14 (i) to pay to the society equitable remuneration for licenced  
15 copying or communicating of copyright material to  
16 which **subsection 113P(2)** applies; and  
17 (ii) by which the body undertakes to give to the society  
18 reasonable assistance to enable the society to collect and  
19 distribute that equitable remuneration.

20 Note: For equitable remuneration, see section 113R.

- 21 (3) The copying or communicating of copyright material is **licenced**  
22 **copying or communicating** if it does not infringe copyright in the  
23 copyright material only because of section 113P.

24 *When remuneration notice is in force*

- 25 (4) A remuneration notice:  
26 (a) comes into force on:  
27 (i) the day on which the notice is given to the relevant  
28 collecting society; or  
29 (ii) a later day specified in the notice; and  
30 (b) remains in force until it is revoked.  
31 (5) The body administering an educational institution may revoke a  
32 remuneration notice at any time by notice in writing given to the  
33 relevant collecting society. The revocation takes effect:

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Uses that do not infringe copyright **Schedule 1**  
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- 1 (a) at the end of the period of 3 months starting on the day the  
2 notice of revocation is given to the society; or  
3 (b) on a later day specified in the notice of revocation.

## 4 **113R Equitable remuneration**

- 5 (1) The amount of the equitable remuneration that, by a remuneration  
6 notice given under section 113Q, the body administering an  
7 educational institution undertakes to pay for licenced copying or  
8 communicating is the amount:  
9 (a) agreed between the relevant collecting society and the body;  
10 or  
11 (b) determined by the Copyright Tribunal under subsection (2).
- 12 (2) The Copyright Tribunal may determine the amount of the equitable  
13 remuneration if:  
14 (a) the society and the body fail to determine the amount by  
15 agreement under paragraph (1)(a); and  
16 (b) the society or the body apply to the Tribunal to have the  
17 Tribunal determine the amount.

## 18 **113S Educational institutions must assist collecting society**

- 19 (1) If a remuneration notice in relation to an educational institution is  
20 in force, the relevant collecting society may, in writing (the **entry**  
21 **notice**), notify the body administering the educational institution  
22 that the society wishes, on a day specified in the notice, to enter the  
23 premises of the educational institution for the purpose of reviewing  
24 the body's compliance with:  
25 (a) the remuneration notice; and  
26 (b) any relevant agreements and determinations mentioned in  
27 paragraph 113P(1)(e) or (2)(c).
- 28 (2) If the collecting society gives the entry notice to the body, a person  
29 authorised in writing by the society may enter the premises of the  
30 educational institution for the purpose mentioned in subsection (1).
- 31 (3) Entry onto premises under subsection (2) may only occur:

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**Schedule 1** Uses that do not infringe copyright

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- 1 (a) during ordinary working hours of the educational institution;  
2 and  
3 (b) on the day specified in the entry notice, which must not be  
4 earlier than 7 days after the day on which the entry notice is  
5 given.
- 6 (4) The body must ensure that a person who enters the premises of the  
7 educational institution under subsection (2) is provided with all  
8 reasonable and necessary facilities and assistance for the effective  
9 review of the body's compliance with the remuneration notice,  
10 agreements and determinations mentioned in paragraphs (1)(a) and  
11 (b).
- 12 (5) A body administering an educational institution commits an  
13 offence if:  
14 (a) the body is subject to a requirement under subsection (4); and  
15 (b) the body engages in conduct; and  
16 (c) the body's conduct contravenes the requirement.
- 17 Penalty: 5 penalty units.

## 113T Voluntary licences

- 18 (1) Nothing in this Division affects the right of the owner of the  
19 copyright in copyright material to grant a licence authorising any  
20 use of that material by the body administering an educational  
21 institution.  
22
- 23 (2) Nothing in this Division affects the right of a performer in a  
24 performance (within the meaning of Part XIA) to authorise the  
25 body administering an educational institution:  
26 (a) to make, or cause to be made, a sound recording or a  
27 cinematograph film of the performance; and  
28 (b) to communicate, or cause to be communicated, that recording  
29 or film.

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Uses that do not infringe copyright **Schedule 1**  
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## 113U Persons acting on behalf of bodies administering educational institutions

A reference in this Division (other than subsection 113S(5)) to the body administering an educational institution includes a reference to a person acting on behalf of the body.

## Division 5—Collecting societies

### Subdivision A—Declaration of collecting society

#### 113V Declaration of collecting society

(1) A body may apply, in writing, to the Minister to be declared to be:

- (a) ~~a works collecting society~~; or
- (b) the broadcasts collecting society.

(2) After receiving the application, the Minister must do one of the following:

- (a) declare the body to be that collecting society, by notifiable instrument;
- (b) refuse to declare the body to be that collecting society;
- (c) both:
  - (i) refer the application to the Copyright Tribunal in the way prescribed by the regulations; and
  - (ii) notify the body of the referral.

(3) If the Minister refers the application to the Copyright Tribunal, the Tribunal may:

- (a) declare the body to be that collecting society, by notifiable instrument; or
- (b) refuse to declare the body to be that collecting society.

(4) A body cannot be declared to be ~~the broadcasts collecting society~~ while another body is declared to be that collecting society.

(5) A body cannot be declared to be a works collecting society for a class of copyright owners while another body is declared to be the collecting society for that class of copyright owners.

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Schedule 1 Uses that do not infringe copyright

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## 113W Requirements for declaration of collecting society

- (1) The Minister and the Copyright Tribunal must not declare a body to be a collecting society under section 113V unless:
- (a) the body is a company limited by guarantee and incorporated under a law of the Commonwealth, a State or a Territory relating to companies; and
  - (b) all relevant right holders, or their agents, are entitled to become its members; and
  - (c) its rules prohibit the payment of dividends to its members; and
  - (d) its rules contain such other provisions as are prescribed, being provisions necessary to ensure that the interests of the collecting society's members who are relevant right holders or their agents are protected adequately, including provisions about:
    - (i) the collection of amounts of equitable remuneration payable under remuneration notices given to the society under section 113Q; and
    - (ii) the payment of the administrative costs of the society out of amounts collected by it; and
    - (iii) the distribution of amounts collected by it; and
    - (iv) the holding on trust by the society of amounts for relevant right holders who are not its members; and
    - (v) access to records of the society by its members.
- (2) A *relevant right holder* is:
- (a) in relation to any collecting society—the owner of the copyright in copyright material (other than a new owner of the copyright in a sound recording of a live performance, within the meaning of section 100AB); or
  - (b) in relation to the broadcasts collecting society—a performer in a performance (within the meaning of Part XIA).

## 113X Revocation of declaration

- (1) Subsection (2) applies if the Minister is satisfied that a body declared as a collecting society under section 113V:
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Uses that do not infringe copyright **Schedule 1**  
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- 1 (a) is not functioning adequately as the collecting society; or  
2 (b) is not acting in accordance with its rules or in the best  
3 interests of those of its members who are relevant right  
4 holders or their agents; or  
5 (c) has altered its rules so that they no longer comply with  
6 paragraphs 113W(1)(c) and (d); or  
7 (d) has refused or failed, without reasonable excuse, to comply  
8 with section 113Z or 113ZA.
- 9 (2) The Minister may:  
10 (a) revoke the declaration, by notifiable instrument; or  
11 (b) refer the question whether the declaration should be revoked  
12 to the Copyright Tribunal in the way prescribed by the  
13 regulations.
- 14 (3) If the Minister refers the question to the Copyright Tribunal, the  
15 Tribunal may:  
16 (a) if the Tribunal is satisfied that paragraph (1)(a), (b), (c) or (d)  
17 applies to the body—revoke the declaration, by notifiable  
18 instrument; or  
19 (b) refuse to revoke the declaration.

## 20 **Subdivision B—Operation of collecting society**

### 21 **113Y Scope of this Subdivision**

22 This Subdivision applies to:

- 23 (a) the works collecting society; or  
24 (b) the broadcasts collecting society.

### 25 **113Z Annual report and accounts**

- 26 (1) The collecting society must, as soon as practicable after the end of  
27 each financial year:  
28 (a) prepare a report of its operations during that financial year;  
29 and  
30 (b) send a copy of the report to the Minister, for presentation to  
31 the Parliament.

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**Part 1** Main amendments

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- 1 (2) The collecting society must keep accounting records correctly  
2 recording and explaining the transactions of the society (including  
3 any transactions as trustee) and the financial position of the  
4 society.
- 5 (3) The accounting records must be kept in such a manner as will  
6 enable true and fair accounts of the society to be prepared from  
7 time to time and those accounts to be conveniently and properly  
8 audited.
- 9 (4) The collecting society must:  
10 (a) as soon as practicable after the end of each financial year,  
11 cause its accounts to be audited by an auditor who is not a  
12 member of the society; and  
13 (b) must send to the Minister a copy of its accounts as so audited.
- 14 (5) The collecting society must give its members reasonable access to  
15 copies of all reports and audited accounts prepared under this  
16 section.
- 17 (6) This section does not affect any obligations of a collecting society  
18 relating to the preparation and lodging of annual returns or  
19 accounts under the law under which it is incorporated.

## 20 **113ZA Amendment of rules**

- 21 The collecting society must, within 21 days after it alters its rules,  
22 send a copy of the rules as so altered to the Minister, together with  
23 a statement setting out:  
24 (a) the effect of the alteration; and  
25 (b) the reasons why it was made.

## 26 **113ZB Applying to Tribunal for review of distribution arrangement**

- 27 (1) The collecting society or a member of the society may apply to the  
28 Copyright Tribunal for review of the arrangement adopted, or  
29 proposed to be adopted, by the society for distributing amounts it  
30 collects in a period.
- 31 (2) After receiving the application, the Tribunal must make an order:
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- 1 (a) confirming the arrangement; or  
2 (b) varying the arrangement; or  
3 (c) substituting for the arrangement another arrangement for  
4 distributing amounts the collecting society collects in the  
5 period.
- 6 (3) If the Tribunal makes an order under subsection (2) varying the  
7 arrangement or substituting for it another arrangement, the  
8 arrangement reflecting the Tribunal's order has effect as if it had  
9 been adopted in accordance with the society's rules, but does not  
10 affect a distribution started before the order was made.

## 11 **113ZC Operation of collecting society rules**

12 Division 4 and this Division apply to the collecting society despite  
13 anything in the rules of the society, but nothing in those Divisions  
14 affects the rules so far as they can operate together with those  
15 Divisions.

## 16 **3 Subsection 200(1)**

17 Repeal the subsection, substitute:

- 18 (1) The copyright in a work is not infringed by reason only that:  
19 (a) the work is reproduced; or  
20 (b) if the work is a literary, dramatic or musical work—an  
21 adaptation of the work is made or reproduced;  
22 in the course of educational instruction if the work is reproduced,  
23 or the adaptation is made or reproduced:  
24 (c) by a teacher or student; and  
25 (d) otherwise than by the use of:  
26 (i) a device adapted for the production of multiple copies;  
27 or  
28 (ii) a device capable of producing a copy or copies by a  
29 process of reprographic reproduction.
- 30 (1A) The copyright in a work is not infringed by reason only that:  
31 (a) the work is reproduced or communicated; or

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# EXPOSURE DRAFT

**Schedule 1** Uses that do not infringe copyright

**Part 1** Main amendments

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- 1 (b) if the work is a literary, dramatic or musical work—an  
2 adaptation of the work is made, reproduced or  
3 communicated;  
4 as part of the questions to be answered in an examination, or in an  
5 answer to such a question.

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# EXPOSURE DRAFT

Uses that do not infringe copyright **Schedule 1**  
Consequential amendments **Part 2**

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## Part 2—Consequential amendments

### *Copyright Act 1968*

#### 4 Subsection 10(1)

Insert:

**body administering** an institution, library or archives has the meaning given by subsection (3).

**broadcasts collecting society** means the body that a declaration in force under section 113V declares to be the broadcasts collecting society.

**broadcast-related communication** means:

(a) a broadcast;

(b) a communication of the content of a free-to-air broadcast, by the broadcaster making the content available online at or after the time of the broadcast; or

(c) a communication by electronic transmission using the internet of the content of a broadcast at, or at substantially, the same time of the broadcast.

**broadcasts remuneration notice** has the meaning given by subsection 113Q(2).

**collecting society** means:

(a) the works collecting society; or

(b) the broadcasts collecting society; or

(c) a body that a declaration in force under section 135ZZT declares to be a collecting society for the purposes of Part VC; or

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# EXPOSURE DRAFT

**Schedule 1** Uses that do not infringe copyright

**Part 2** Consequential amendments

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- 1 (d) a body that a declaration in force under section 135ZZZO  
2 declares to be a collecting society for the purposes of  
3 Part VD; or  
4 (e) a company that a declaration in force under section 153F  
5 declares to be a collecting society for the purposes of  
6 Division 2 of Part VII.

7 **5 Subsection 10(1) (at the end of paragraphs (aa), (a), (b) and**  
8 **(c) of the definition of *educational institution*)**

9 Add “or”.

10 **6 Subsection 10(1) (paragraphs (d) to (i) of the definition of**  
11 ***educational institution*)**

12 Repeal the paragraphs, substitute:

- 13 (d) a school of nursing; or  
14 (e) an undertaking within a hospital, if the undertaking conducts  
15 courses of study or training in the provision of:  
16 (i) medical services; or  
17 (ii) services incidental to the provision of medical services;  
18 or  
19 (f) a teacher education centre; or  
20 (g) an institution with the principal function of providing courses  
21 of study or training for any of the following purposes:  
22 (i) general education;  
23 (ii) the preparation of people for a particular occupation or  
24 profession;  
25 (iii) the continuing education of people engaged in a  
26 particular occupation or profession;  
27 (iv) the teaching of English to people whose first language is  
28 not English; or  
29 (h) an undertaking within a body administering an educational  
30 institution, if:  
31 (i) the educational institution is of a kind referred to in a  
32 preceding paragraph of this definition; and  
33 (ii) the principal function, or one of the principal functions,  
34 of the undertaking is the provision of teacher training to  
35 people engaged as instructors in educational institutions
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# EXPOSURE DRAFT

Uses that do not infringe copyright **Schedule 1**  
Consequential amendments **Part 2**

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- 1 of a kind mentioned in a preceding paragraph of this  
2 definition, or of 2 or more such kinds; or  
3 (i) an institution, or an undertaking within a body administering  
4 an educational institution of a kind referred to in a preceding  
5 paragraph of this definition, if:  
6 (i) the principal function, or one of the principal functions,  
7 of the institution, or undertaking, is the providing of  
8 material to educational institutions of a kind referred to  
9 in a preceding paragraph of this definition, or 2 or more  
10 such kinds; and  
11 (ii) that activity is undertaken for the purpose of helping  
12 those institutions in their teaching purposes.

## 7 Subsection 10(1)

13 Repeal the following definitions:

- 14 (a) definition of *institution assisting persons with an*  
15 *intellectual disability*;  
16 (b) definition of *institution assisting persons with a print*  
17 *disability*.  
18

## 8 Subsection 10(1)

19 Insert:

20 *key cultural institution* has the meaning given by section 113L.

21 *licenced copying or communicating* has the meaning given by  
22 subsection 113Q(3).  
23

24 *Parliament*: see section 12.

## 9 Subsection 10(1) (definition of *person with a print disability*)

25 Repeal the definition.  
26

## 10 Subsection 10(1)

27 Insert:

28 *relevant right holder* has the meaning given by  
29 subsection 113W(2).  
30  
31

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EXPOSURE DRAFT

# EXPOSURE DRAFT

**Schedule 1** Uses that do not infringe copyright

**Part 2** Consequential amendments

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- 1                    *remuneration notice* means:  
2                    (a) a works remuneration notice; or  
3                    (b) a broadcasts remuneration notice; or  
4                    (c) a notice mentioned in section 135ZZL; or  
5                    (d) a notice mentioned in section 135ZZJ.

6                    *rules*, of a collecting society, means the memorandum and articles  
7                    of association of the society.

8                    *works collecting society* means the body that a declaration in force  
9                    under section 113V declares to be the works collecting society.

10                   *works remuneration notice* has the meaning given by  
11                   subsection 113Q(1).

## 12                   **11 Paragraphs 10(3)(f), (h), (ha) and (m)**

13                   Repeal the paragraphs.

## 14                   **12 Sections 10A and 47A**

15                   Repeal the sections.

## 16                   **13 Subsections 49(2) and (2C) and 50(2) (notes)**

17                   Omit “subsection 51A(1), to replace the article or published work  
18                   because it was damaged, had deteriorated or had been lost or stolen”,  
19                   substitute “subsection 113H(1) (Preservation)”.

## 20                   **14 Sections 51A and 51B**

21                   Repeal the sections.

## 22                   **15 At the end of paragraph 53(a)**

23                   Add “and”.

## 24                   **16 Paragraph 53(b)**

25                   Omit “, section 51 or 51A”, substitute “or section 51”.

## 26                   **17 At the end of paragraph 53(b)**

27                   Add “and”.

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# EXPOSURE DRAFT

Uses that do not infringe copyright **Schedule 1**  
Consequential amendments **Part 2**

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1 **18 Paragraph 53(d)**

2 Omit “section 51A or”.

3 **19 Subsection 54(1A)**

4 Insert:

5 *original form* has its ordinary meaning.

6 **20 Section 100AH (note)**

7 Omit “under section 135A”.

8 **21 Section 100AH (note)**

9 Omit “135ZB,”.

10 **22 Sections 110B and 110BA**

11 Repeal the sections.

12 **23 Subparagraph 112(a)(i)**

13 Omit “or 44”, substitute “, 44 or 113E”.

14 **24 Subparagraph 112(a)(ii)**

15 Repeal the subparagraph, substitute:

16 (ii) a use of the whole or a part of that work, being a use  
17 that, because of section 49, 50, 113F, 113H, 113J,  
18 113K, 113M, 113P or 182A, does not infringe copyright  
19 in that work; or

20 **25 Subparagraph 112(b)(ii)**

21 Repeal the subparagraph, substitute:

22 (ii) a use of a whole or a part of one of those works, or a use  
23 of the whole or parts of some or all of those works,  
24 being a use that, because of section 49, 50, 113F, 113H,  
25 113J, 113K, 113M, 113P or 182A, does not infringe  
26 copyright in that work or those works.

27 **26 Section 112AA**

28 Repeal the section.

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**EXPOSURE DRAFT**

# EXPOSURE DRAFT

**Schedule 1** Uses that do not infringe copyright

**Part 2** Consequential amendments

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- 1       **27 Section 116AB (definition of *copyright material*)**  
2           Repeal the definition.
- 3       **28 Section 132AA (definition of *copyright material*)**  
4           Repeal the definition.
- 5       **29 Section 134B (definition of *copyright material*)**  
6           Repeal the definition.
- 7       **30 Parts VA and VB**  
8           Repeal the Parts.
- 9       **31 Section 135ZZI (definition of *rules*)**  
10          Repeal the definition.
- 11       **32 Section 135ZZZF**  
12          Repeal the following definitions:  
13           (a) definition of *engage in conduct*;  
14           (b) definition of *rules*.
- 15       **33 Section 149A**  
16          Repeal the section.
- 17       **34 Subdivisions C, D and F of Division 3 of Part VI**  
18          Repeal the Subdivisions.
- 19       **35 Subsection 173(8)**  
20          Repeal the subsection.
- 21       **36 Subsection 195A(3)**  
22          Repeal the subsection, substitute:  
23           (3) A reference in this Part to an educational institution includes a  
24           reference to an institution that has at any time been an educational  
25           institution.
- 

EXPOSURE DRAFT

# EXPOSURE DRAFT

Uses that do not infringe copyright **Schedule 1**  
Consequential amendments **Part 2**

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- 1 **37 Paragraphs 195B(1)(a) and (b)**  
2 Repeal the paragraphs.
- 3 **38 Paragraph 195B(1)(e)**  
4 Omit “135P(1A)(b), 135ZZB(1A)(b)”, substitute “113V(2)(b)”.
- 5 **39 Paragraph 195B(1)(f)**  
6 Omit “135Q(2)(a), 135ZZC(2)(a)”, substitute “113X(2)(a)”.
- 7 **40 Subsection 195B(2)**  
8 Repeal the subsection.
- 9 **41 Subsection 195B(4)**  
10 Omit “(2) or”.
- 11 **42 Subsection 195B(4)**  
12 Omit “(2)(b) or (c) or (3)(b), as the case requires,” substitute “(3)(b)”.
- 13 **43 Subsections 200(3) and (4)**  
14 After “subsections (1),” insert “(1A),”.
- 15 **44 Section 200AA**  
16 Repeal the section.
- 17 **45 Paragraph 200AB(1)(b)**  
18 Omit “, (3) or (4)”, substitute “or (3)”.
- 19 **46 Subsection 200AB(4)**  
20 Repeal the subsection.
- 21 **47 Subsection 200AB(6) (example 1)**  
22 Omit “Example 1”, substitute “Example”.
- 23 **48 Subsection 200AB(6) (example 1)**  
24 Omit “appliance”, substitute “device”.
- 

**EXPOSURE DRAFT**

# EXPOSURE DRAFT

**Schedule 1** Uses that do not infringe copyright

**Part 2** Consequential amendments

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1     **49 Subsection 200AB(6) (example 2)**

2             Repeal the example.

3     **50 Subsection 200AB(6A)**

4             Omit “, (3)(c) or (4)(c)”, substitute “or (3)(c)”.

5     **51 Subparagraph 203A(1)(b)(i)**

6             Omit “, 50, 51A or 110B”, substitute “or 50”.

7     **52 Paragraph 203D(1)(b)**

8             Omit “more of sections 49, 50, 51A or 110B”, substitute “both of  
9             sections 49 and 50”.

10    **53 Section 203E (heading)**

11            Repeal the heading, substitute:

12    **203E Inspection of records and declarations retained in records of**  
13    **libraries and archives**

14    **54 Subsection 203E(1)**

15            Repeal the subsection, substitute:

- 16            (1) The owner of the copyright in a work, sound recording or  
17            cinematograph film, or the agent of such an owner, may notify the  
18            officer in charge of a library or archives, in writing, that he or she  
19            wishes to inspect, on a day specified in the notice:
- 20            (a) all the relevant declarations retained in the records of the  
21            library or archives that relate to the making, in reliance on  
22            section 49 or 50, of copies of works or parts of works or of  
23            copies of other subject-matter; or
  - 24            (b) such of those declarations as:
    - 25            (i) relate to the making, in reliance on section 49 or 50, of  
26            copies of works or parts of works or of copies of other  
27            subject-matter; and
    - 28            (ii) were made during a period specified in the notice.

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Uses that do not infringe copyright **Schedule 1**  
Consequential amendments **Part 2**

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1 (2) The day specified in the notice must be an ordinary working day of  
2 the library or archives not less than 7 days after the date of the  
3 giving of the notice.

4 **55 Paragraphs 203F(a) and 203G(a)**

5 Omit “, 50, 51A or 110B”, substitute “or 50”.

6 **56 Subsection 203H(1)**

7 Omit “, 50 or 51A”, substitute “or 50”.

8 **57 Subsection 203H(2)**

9 Repeal the subsection.

10 **58 Paragraph 203H(4)(a)**

11 Repeal the paragraph, substitute:

12 (a) the person makes a notation described in subsection (1) on a  
13 reproduction of a work or part of a work; and

14 **59 Subsection 203H(5)**

15 Omit “subsections (1) and (2)”, substitute “subsection (1)”.

16 **60 Subparagraphs 203H(5)(b)(iv) and (c)(iv)**

17 Omit “those subsections apply”, substitute “that subsection applies”.

18 **61 Subsections 203H(6) to (10)**

19 Repeal the subsections.

20 **62 Subsection 248A(1) (paragraphs (d) and (e) of the**  
21 **definition of exempt recording)**

22 Repeal the paragraphs, substitute:

23 (d) an indirect cinematograph film of a performance, being a  
24 film made by, or on behalf of, the body administering an  
25 institution assisting persons with a disability solely for the  
26 purpose of the provision, whether by the institution or  
27 otherwise, of assistance to persons with a disability; or

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**Schedule 1** Uses that do not infringe copyright

**Part 2** Consequential amendments

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- 1       **63 Subsection 248A(1) (paragraph (k) of the definition of**  
2            **exempt recording)**  
3            Omit “(e).”
- 4       **64 Subsection 248A(1) (subparagraph (n)(ii) of the definition**  
5            **of exempt recording)**  
6            Omit “(e).”
- 7       **65 Subsection 248C(2)**  
8            Omit “, (e).”
- 9       **66 Subsection 248G(1) (note)**  
10           Omit “or other”.
- 11       **67 Subsection 248G(1) (note)**  
12           Omit “sections 135E and 135F”, substitute “Division 4 of Part IVA”.
- 13       **68 Subsection 248PC(7) (note 2)**  
14           Omit “or other”.
- 15       **69 Subsection 248PC(7) (note 2)**  
16           Omit “sections 135E and 135F”, substitute “Division 4 of Part IVA”.

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# EXPOSURE DRAFT

Uses that do not infringe copyright **Schedule 1**  
Transitional provisions **Part 3**

---

## 1 **Part 3—Transitional provisions**

### 2 **70 Definitions**

3 In this Part:

4 *new law* means the *Copyright Act 1968*, as amended by this Schedule.

5 *old law* means the *Copyright Act 1968*, as in force immediately before  
6 the commencement of this item.

### 7 **71 Preservation and research**

8 (1) Paragraph 113H(2)(b) of new law applies in relation to copyright  
9 material made:

10 (a) before the commencement of this item; and

11 (b) for the purpose of preservation or replacement;

12 as if the reference in that paragraph to subsection 113H(1) were a  
13 reference to subsection 51A(1) or 110B(1) or (2) of the old law.

14 (2) Paragraph 113J(2)(b) of the new law applies in relation to  
15 copyright material made:

16 (a) before the commencement of this item; and

17 (b) for the purpose of research;

18 as if the reference in that paragraph to subsection 113J(1) were a  
19 reference to paragraph 51A(1)(a) or 110B(1)(a) or (2)(a) of the old  
20 law.

21 (3) Paragraph 113M(2)(b) of the new law applies in relation to  
22 copyright material made before the commencement of this item as  
23 if the reference in that paragraph to subsection 113M(1) were a  
24 reference to section 51B, 110BA or 112AA of the old law.

### 25 **72 Educational and other institutions**

26 (1) Despite the repeal of subsection 135E(2) of the old law by this  
27 Schedule, if:

28 (a) a copy or communication was made before the  
29 commencement of this item; and

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**Schedule 1** Uses that do not infringe copyright

**Part 3** Transitional provisions

---

1 (b) a thing mentioned in paragraph (a), (b) or (c) of that  
2 subsection is done, in relation to the copy or communication,  
3 on or after that commencement;

4 that subsection applies to the making of the copy or communication, in  
5 relation to the thing done.

6 (2) Despite the repeal of subsection 135U(2) of the old law by this  
7 Schedule, if:

8 (a) a copy is made before the commencement of this item; and  
9 (b) a thing mentioned in paragraph (a), (b) or (c) of that  
10 subsection is done, in relation to the copy, on or after that  
11 commencement;

12 that subsection applies to the making of the copy, in relation to the thing  
13 done.

14 (3) Despite the repeal of subsection 135ZZH(1) of the old law by this  
15 Schedule, if:

16 (a) a copy, record or version was made before the  
17 commencement of this item; and  
18 (b) a thing mentioned in paragraph (a), (b) or (c) of that section  
19 is done, in relation to the copy, record or version, on or after  
20 that commencement;

21 that subsection applies to the making of the copy, record or version, in  
22 relation to the thing done.

## 23 **73 Remuneration notices**

### 24 *Agreements and determinations*

25 (1) An agreement:

26 (a) made under section 135ZWAA of the old law; and  
27 (b) in force immediately before the commencement of this item;  
28 has effect, from that commencement, as if it had been made under  
29 subparagraph 113P(1)(e)(i) of the new law.

30 (2) A determination:

31 (a) made under section 135ZWAA of the old law; and  
32 (b) in force immediately before the commencement of this item;

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Uses that do not infringe copyright **Schedule 1**  
Transitional provisions **Part 3**

1 has effect, from that commencement, as if it had been made under  
2 subsection 113P(4) of the new law for the purposes of  
3 paragraph 113P(1)(e).

4 (3) An agreement:  
5 (a) made under section 135JAA of the old law; and  
6 (b) in force immediately before the commencement of this item;  
7 has effect, from that commencement, as if it had been made under  
8 subparagraph 113P(2)(c)(i) of the new law.

9 (4) A determination:  
10 (a) made under section 135JAA of the old law; and  
11 (b) in force immediately before the commencement of this item;  
12 has effect, from that commencement, as if it had been made under  
13 subsection 113P(4) of the new law for the purposes of  
14 paragraph 113P(2)(c).

## 15 *Remuneration notices*

16 (5) A remuneration notice:  
17 (a) given under Part VB of the old law; and  
18 (b) in force immediately before the commencement of this item;  
19 has effect, from that commencement, as if it had been given under  
20 subsection 113Q(1) of the new law.

21 (6) A remuneration notice:  
22 (a) given under Part VA of the old law; and  
23 (b) in force immediately before the commencement of this item;  
24 has effect, from that commencement, as if it had been given under  
25 subsection 113Q(2) of the new law.

## 26 **74 Equitable remuneration**

### 27 *Agreements*

28 (1) An agreement:  
29 (a) made under subsection 135H(1), 135J(1), 135JA(1),  
30 135ZV(1), 135ZW(1) or 135ZWA(1) of the old law; and

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**Part 3** Transitional provisions

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1 (b) in force immediately before the commencement of this item;  
2 has effect, from that commencement, as if it had been made under  
3 paragraph 113R(a) of the new law.

## 4 *Applications*

5 (2) An application:  
6 (a) made under subsection 135H(1) or (1A), 135J(1) or (1A),  
7 135JA(1) or (2), 135ZV(1) or (1A), 135ZW(1) or (1A) or  
8 135ZWA(1) of the old law; and  
9 (b) with which the Tribunal did not fully deal before the  
10 commencement of this item;  
11 has effect, from that commencement, as if it had been made under  
12 paragraph 113R(b) of the new law.

## 13 *Determinations*

14 (3) A determination:  
15 (a) made under subsection 135H(1) or (1A), 135J(1) or (1A),  
16 135JA(1) or (2), 135ZV(1) or (1A), 135ZW(1) or (1A) or  
17 135ZWA(1) of the old law; and  
18 (b) in force immediately before the commencement of this item;  
19 has effect, from that commencement, as if it had been made under  
20 paragraph 113R(b) of the new law.

## 21 **75 Declarations of collecting societies**

22 (1) A declaration:  
23 (a) made under section 135ZZB of the old law in relation to a  
24 body; and  
25 (b) in force immediately before the commencement of this item;  
26 has effect, from that commencement, as if it had been made under  
27 section 113V of the new law and declared the body to be the works  
28 collecting society.

29 (2) A declaration:  
30 (a) made under section 135P of the old law in relation to a body;  
31 and

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Uses that do not infringe copyright **Schedule 1**  
Transitional provisions **Part 3**

---

1 (b) in force immediately before the commencement of this item;  
2 has effect, from that commencement, as if it had been made under  
3 section 113V of the new law and declared the body to be the broadcasts  
4 collecting society.

## 5 **76 Annual reports**

6 Section 113Z of the new law applies to financial years ending on or  
7 after the commencement of this item.

## 8 **77 Orders varying distribution arrangements**

### 9 *Applications*

10 (1) An application:  
11 (a) made under section 135JAA or 135ZWAA of the old law;  
12 and  
13 (b) with which the Tribunal did not fully deal before the  
14 commencement of this item;  
15 has effect, from that commencement, as if it had been made under  
16 subsection 113P(4) of the new law.

### 17 *Orders*

18 (2) An order:  
19 (a) made under paragraph 153DE(4)(b) of the old law; and  
20 (b) in force immediately before the commencement of this item;  
21 has effect, from that commencement, as if it had been made under  
22 paragraph 113ZB(2)(b) of the new law in relation to the works  
23 collecting society.

24 (3) An order:  
25 (a) made under paragraph 153BAD(4)(b) of the old law; and  
26 (b) in force immediately before the commencement of this item;  
27 has effect, from that commencement, as if it had been made under  
28 paragraph 113ZB(2)(b) of the new law in relation to the broadcasts  
29 collecting society.

30 (4) An order:

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1 (a) made under paragraph 153DE(4)(c) of the old law; and  
2 (b) in force immediately before the commencement of this item;  
3 has effect, from that commencement, as if it had been made under  
4 paragraph 113ZB(2)(c) of the new law in relation to the works  
5 collecting society.

6 (5) An order:  
7 (a) made under paragraph 153BAD(4)(c) of the old law; and  
8 (b) in force immediately before the commencement of this item;  
9 has effect, from that commencement, as if it had been made under  
10 paragraph 113ZB(2)(c) of the new law in relation to the broadcasts  
11 collecting society.

## 78 Inspection notices

12 A notice:  
13 (a) given under paragraph 203E(1)(a) of the old law; and  
14 (b) specifying a day occurring on or after the day this item  
15 commences;  
16 has effect, from that commencement, as if it had been given under  
17 subsection 203E(1) of the new law.  
18

EXPOSURE DRAFT

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Limitation on remedies available against service providers **Schedule 2**

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1 **Schedule 2—Limitation on remedies available**  
2 **against service providers**  
3

4 *Copyright Act 1968*

5 **1 Division 2AA of Part V (heading)**

6 Repeal the heading, substitute:

7 **Division 2AA—Limitation on remedies available against**  
8 **service providers**

9 **2 Subsection 116AA(1)**

10 Omit “carriage” (wherever occurring).

11 **3 Section 116AB (definition of *catching*)**

12 Omit “carriage”.

13 **4 Section 116AB**

14 Insert:

15 *service provider:*

- 16 (a) in relation to an activity mentioned in section 116AC—  
17 means a provider of transmission, routing or connections for  
18 digital online communications without modification of their  
19 content between or among points specified by the user of  
20 material of the user’s choosing; and  
21 (b) in relation to an activity mentioned in section 116AD, 116AE  
22 or 116AF—means a provider or operator of facilities for  
23 online services or network access.

24 **5 Sections 116AC to 116AJ**

25 Omit “carriage” (wherever occurring).

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Schedule 3 Duration of copyright

## Schedule 3—Duration of copyright

### *Copyright Act 1968*

#### 1 Subsection 10(1)

Insert:

*generally known*: without limiting when the identity of the author of copyright material is *generally known*, it is *generally known* if it can be ascertained by reasonable enquiry.

*made public* has the meaning given by section 34.

#### 2 Sections 33 and 34

Repeal the sections, substitute:

#### 33 Duration of copyright in original works

- (1) This section applies to copyright that subsists in a work under this Part.

*Works first made public before 1 January 2018*

- (2) The following table has effect if the work was first made public before 1 January 2018.

#### Duration of copyright—works first made public before 1 January 2018

Item	Column 1 If ...	Column 2 the copyright continues to subsist until ...
1	no other item of this table applies	70 years after the calendar year in which the author of the work died.
2	(a) the work is: (i) a literary work (other than a computer program); or (ii) a dramatic work; or	70 years after the calendar year in which the work was first made public.

32 *Copyright Amendment (Disability Access and Other Measures) Bill*  
2016

EXPOSURE DRAFT



# EXPOSURE DRAFT

Duration of copyright Schedule 3

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**Duration of copyright—works first made public before 1 January 2018**

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<b>Item</b>	<b>Column 1 If ...</b>	<b>Column 2 the copyright continues to subsist until ...</b>
	(iii) a musical work; or (iv) an engraving; and (b) the author of the work has died; and (c) the work was not first made public before the author died; and (d) item 3 does not apply	
3	the identity of the author of the work is not generally known at any time before the end of 70 years after the calendar year in which the work was first made public	70 years after the calendar year in which the work was first made public.

1 *Works never made public, and works first made public on or after*  
2 *1 January 2018*

3 (3) The following table has effect if the work was not first made public  
4 before 1 January 2018.  
5

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**Duration of copyright—works not first made public before 1 January 2018**

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<b>Item</b>	<b>Column 1 If ...</b>	<b>Column 2 the copyright continues to subsist until ...</b>
1	no other item of this table applies	70 years after the calendar year in which the author of the work died.
2	(a) the identity of the author is not generally known at any time before the end of 70 years after the calendar year in which the work was made; and (b) the work is not first made public before the end of 50 years after the calendar year in which the work was made	70 years after the calendar year in which the work was made.
3	(a) the identity of the author is not generally known at any time before the end of 70	70 years after the calendar year in which

EXPOSURE DRAFT

# EXPOSURE DRAFT

## Schedule 3 Duration of copyright

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### Duration of copyright—works not first made public before 1 January 2018

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Item	Column 1 If ...	Column 2 the copyright continues to subsist until ...
	years after the calendar year in which the work was first made public; and	the work was first made public.
	(b) the work is first made public before the end of 50 years after the calendar year in which the work was made	

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1 **34 When a work is *made public***

2 A work is *made public* when:

- 3 (a) the work, or an adaptation of the work, is published,  
4 performed in public or broadcast; or  
5 (b) records of the work, or of an adaptation of the work, are  
6 offered or exposed for sale to the public.

7 **3 Sections 79 and 80**

8 Repeal the sections, substitute:

9 **79 References to any one or more of joint authors**

10 A reference in any of the following provisions to the author of a  
11 work is taken to be a reference to any one or more of the authors of  
12 the work if the work is a work of joint authorship:

- 13 (a) section 32;  
14 (b) item 3 of the table in subsection 33(2);  
15 (c) item 2 or 3 of the table in subsection 33(3).

16 **80 References to whichever of joint authors died last**

17 A reference in any of the following provisions to the author of a  
18 work is taken to be a reference to the author who died last if the  
19 work is a work of joint authorship to which section 81 does not  
20 apply:

- 21 (a) item 1 or 2 of the table in subsection 33(2);  
22 (b) item 1 of the table in subsection 33(3);

1 (c) section 51.

2 **4 Subsection 81(2)**

3 Omit “or could be ascertained by reasonable inquiry”.

4 **5 Subsection 81(3)**

5 Repeal the subsection, substitute:

6 (3) A reference in any of the provisions mentioned in subsection (3A)  
7 to the author of the work is taken to be a reference to:

- 8 (a) the author whose identity was disclosed; or  
9 (b) if the identity of 2 or more of the authors was disclosed—  
10 whichever of those authors died last.

11 (3A) The provisions are as follows:

- 12 (a) item 1 or 2 of the table in subsection 33(2);  
13 (b) item 1 of the table in subsection 33(3).

14 **6 Paragraph 81(4)(b)**

15 Omit “or can be ascertained by reasonable inquiry”.

16 **7 At the end of paragraph 129(2)(a)**

17 Add “and”.

18 **8 Paragraph 129(2)(c)**

19 Omit “or can be ascertained by reasonable inquiry”.

20 **9 Section 180**

21 Repeal the section, substitute:

22 **180 Duration of Crown copyright in original works**

23 Copyright in a work of which the Commonwealth or a State:

- 24 (a) is the owner; or  
25 (b) would, but for an agreement to which section 179 applies, be  
26 the owner;

# EXPOSURE DRAFT

## Schedule 3 Duration of copyright

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1 subsists until 50 years after the calendar year in which the work is  
2 made.

### 3 **10 Section 233**

4 Repeal the section.

### 5 **11 Paragraph 235(2)(a)**

6 Omit “sections 176 and 177, and subsection 180(1)”, substitute  
7 “sections 176, 177 and 180”.

### 8 **12 Paragraph 235(2)(b)**

9 Omit “sections 176 and 177, and subsection 180(2) as modified by  
10 section 233,” substitute “sections 176, 177 and 180”.

### 11 **13 Application of amendments**

12 The amendments made by this Schedule apply in relation to works  
13 made before, on or after the commencement of this item.

### 14 **14 Transitional provision**

15 If the amendments made by this Schedule would have the effect that  
16 copyright in a work ceased to subsist at a time occurring before the  
17 commencement of this item, that copyright ceases to subsist on the  
18 commencement of this item, instead of at that earlier time.

### 19 **15 Compensation for acquisition of property**

- 20 (1) If the operation of this Schedule would result in an acquisition of  
21 property (within the meaning of paragraph 51(xxxi) of the Constitution)  
22 from a person otherwise than on just terms (within the meaning of that  
23 paragraph), the Commonwealth is liable to pay a reasonable amount of  
24 compensation to the person.
- 25 (2) If the Commonwealth and the person do not agree on the amount of the  
26 compensation, the person may institute proceedings in a court of  
27 competent jurisdiction for the recovery from the Commonwealth of  
28 such reasonable amount of compensation as the court determines.

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