

# 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

---

## Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedules.....	2
<b>Schedule 1—Uses that do not infringe copyright</b>		<b>3</b>
Part 1—Main amendments		3
<i>Copyright Act 1968</i>		3
Part 2—Consequential amendments		20
<i>Copyright Act 1968</i>		20
Part 3—Transitional provisions		30
<b>Schedule 2—Limitation on remedies available against service providers</b>		<b>36</b>
<i>Copyright Act 1968</i>		36
<b>Schedule 3—Duration of copyright</b>		<b>37</b>
<i>Copyright Act 1968</i>		37

# EXPOSURE DRAFT

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.



# EXPOSURE DRAFT

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

---

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

3 **Part 1—Main amendments**

4 *Copyright Act 1968*

5 **1 Subsection 10(1)**

6 Insert:

7 ***copyright material*** means anything in which copyright subsists.

8 Note: This definition does not apply to Division 3 of Part VI or Division 2 of  
9 Part VII (use of copyright material for the Crown): see sections 148  
10 and 182B.

11 ***engage in conduct*** means:

- 12 (a) do an act; or  
13 (b) omit to perform an act.

14 ***institution assisting persons with a disability*** means:

- 15 (a) an educational institution; or  
16 (b) an institution that has as its principal function, or one of its  
17 principal functions, the provision of assistance to persons  
18 with a disability.

19 ***original form***, in relation to copyright material, means:

- 20 (a) if the material is a literary, dramatic or musical work—the  
21 manuscript of the work; or  
22 (b) if the material is a sound recording—the first record  
23 embodying the recording; or  
24 (c) if the material is a cinematograph film—the first copy of the  
25 film; or  
26 (d) otherwise—something embodying the material as initially  
27 prepared by the author.

28 Note: This definition does not apply to Division 6 of Part III: see  
29 subsection 54(1A).

# EXPOSURE DRAFT

Schedule 1 Uses that do not infringe copyright

Part 1 Main amendments

---

1                    *person with a disability* means a person with a disability that  
2                    causes the person difficulty in reading, viewing or hearing  
3                    copyright material in a particular form.

## 4                    **2 After Part IV**

5                    Insert:

## 6                    **Part IVA—Uses that do not infringe copyright**

### 7                    **Division 1—Simplified outline of this Part**

#### 8                    **113D Simplified outline of this Part**

9                    The following do not infringe copyright in any copyright material:  
10                    (a) certain use by or for persons with a disability;  
11                    (b) certain use for the purposes of libraries, archives and  
12                    key cultural institutions;  
13                    (c) certain use by educational institutions.  
14                    Note 1: Other provisions of this Act, including Parts III, IV, VC, VII and X,  
15                    provide that certain other use of copyright material does not infringe  
16                    copyright.  
17                    Note 2: Regulations made for the purposes of paragraph 116AN(9)(c) may  
18                    provide for a person to circumvent an access control technological  
19                    protection measure if doing so does not infringe copyright (including  
20                    because of this Part).

### 21                    **Division 2—Access by persons with a disability**

#### 22                    **113E Fair dealing for purpose of access by persons with a disability**

- 23                    (1) A fair dealing with copyright material does not infringe copyright  
24                    in the material if the dealing is for the purpose of one or more  
25                    persons with a disability having access to copyright material.
- 26                    (2) The matters to which regard must be had, in determining whether  
27                    the dealing is a fair dealing for the purposes of this section, include  
28                    the following matters:

# EXPOSURE DRAFT

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

---

- 1 (a) the purpose and character of the dealing;  
2 (b) the nature of the copyright material;  
3 (c) the effect of the dealing upon the potential market for, or  
4 value of, the material;  
5 (d) if only part of the material is dealt with—the amount and  
6 substantiality of the part dealt with, taken in relation to the  
7 whole material.

8 **113F Use of copyright material by institutions assisting persons with**  
9 **a disability**

10 An institution assisting persons with a disability, or a person acting  
11 on behalf of such an institution, does not infringe copyright in  
12 copyright material by using the material if:

- 13 (a) the use is for the sole purpose of the provision, whether by  
14 the institution or otherwise, of assistance to one or more  
15 persons with a disability; and  
16 (b) the institution, or the person acting on behalf of the  
17 institution, is satisfied that the material (or a relevant part of  
18 the material) cannot be obtained:  
19 (i) in the format that, because of the disability, the persons  
20 with a disability require; and  
21 (ii) within a reasonable time at an ordinary commercial  
22 price.

23 **Division 3—Libraries and archives**

24 **Subdivision A—Public libraries, parliamentary libraries and**  
25 **public archives**

26 **113G Scope of this Subdivision**

27 This Subdivision applies to the following collections:

- 28 (a) a library all or part of which is accessible to members of the  
29 public directly or through interlibrary loans;  
30 (b) a library with the principal purpose of providing library  
31 services for members of a Parliament;

# EXPOSURE DRAFT

## Schedule 1 Uses that do not infringe copyright

### Part 1 Main amendments

---

- 1 Note: For references to a Parliament, see section 12.  
2 (c) an archives all or part of which is accessible to members of  
3 the public.

#### 4 **113H Preservation**

- 5 (1) An authorized officer of the library or archives does not infringe  
6 copyright in copyright material by using the material if:  
7 (a) the use is for the purpose of preserving the collection  
8 comprising the library or archives; and  
9 (b) either or both of the following subparagraphs apply:  
10 (i) the material is held in the collection in original form;  
11 (ii) the authorized officer is satisfied that a copy of the  
12 material cannot be obtained in a version or format that  
13 the authorized officer requires, consistent with best  
14 practice for preservation of such collections.
- 15 (2) An authorized officer of the library or archives does not infringe  
16 copyright in copyright material (the *preservation copy*) by using  
17 the preservation copy if:  
18 (a) the preservation copy was made by using other copyright  
19 material; and  
20 (b) subsection (1) applied to that use of the other copyright  
21 material; and  
22 (c) the preservation copy is in electronic form; and  
23 (d) the preservation copy is used by being made available to be  
24 accessed electronically at the library or archives in such a  
25 way that a person accessing the preservation copy:  
26 (i) cannot copy it electronically; and  
27 (ii) cannot communicate it to the public.

#### 28 **113J Research**

- 29 (1) An authorized officer of the library or archives does not infringe  
30 copyright in copyright material by using the material if:  
31 (a) the material forms part of the collection comprising the  
32 library or archives; and  
33 (b) the material is held in the collection in original form; and
-



# EXPOSURE DRAFT

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

---

- 1 (c) the use is for the purpose of research carried out at:  
2 (i) the library or archives; or  
3 (ii) another library or archives to which this Subdivision  
4 applies.
- 5 (2) An authorized officer of the library or archives does not infringe  
6 copyright in copyright material (the *research copy*) by using the  
7 research copy if:  
8 (a) the research copy was made by using other copyright  
9 material; and  
10 (b) subsection (1) applied to that use of the other copyright  
11 material; and  
12 (c) the research copy is in electronic form; and  
13 (d) the research copy is used by being made available to be  
14 accessed electronically at the library or archives in such a  
15 way that a person accessing the research copy:  
16 (i) cannot copy it electronically; and  
17 (ii) cannot communicate it to the public.

## 18 **113K Administration**

19 An authorized officer of the library or archives does not infringe  
20 copyright in copyright material by using the material if the use is  
21 for purposes directly related to the care or control of the collection  
22 comprising the library or archives.

## 23 **Subdivision B—Key cultural institutions**

### 24 **113L Meaning of *key cultural institution***

25 A library or archives is a *key cultural institution* if the body  
26 administering it:

- 27 (a) has, under a law of the Commonwealth or a State or  
28 Territory, the function of developing and maintaining the  
29 collection comprising the library or archives; or  
30 (b) is prescribed by the regulations for the purposes of this  
31 paragraph.

32 Note: In some cases, Subdivision A will also apply to the library or archives.

# EXPOSURE DRAFT

Schedule 1 Uses that do not infringe copyright

Part 1 Main amendments

---

## 113M Preservation

(1) An authorized officer of a key cultural institution does not infringe copyright in copyright material by using the material if:

(a) the material forms, or formed, part of the collection comprising the key cultural institution; and

(b) the authorized officer is satisfied that the material is of historical or cultural significance to Australia; and

(c) the use is for the purpose of preserving the material; and

(d) either or both of the following subparagraphs apply:

(i) the material is held in the collection in original form;

(ii) the authorized officer is satisfied that a copy of the material cannot be obtained in a version or format that the authorized officer requires, consistent with best practice for preservation of such copyright material.

(2) An authorized officer of a key cultural institution does not infringe copyright in copyright material (the *preservation copy*) by using the preservation copy if:

(a) the preservation copy was made by using other copyright material; and

(b) subsection (1) applied to that use of the other copyright material; and

(c) the preservation copy is in electronic form; and

(d) the preservation copy is used by being made available to be accessed electronically at the key cultural institution in such a way that a person accessing the preservation copy:

(i) cannot copy it electronically; and

(ii) cannot communicate it to the public.

## 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

# EXPOSURE DRAFT

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

---

1 administering the educational institution agrees to pay equitable  
2 remuneration to a collecting society.

## 3 **113P Copying and communicating works and broadcasts**

### 4 *Works*

- 5 (1) The body administering an educational institution does not infringe  
6 copyright in a work by copying or communicating the whole or a  
7 part of the work if:
- 8 (a) a works remuneration notice in relation to the educational  
9 institution is in force; and
  - 10 (b) the work is not:
    - 11 (i) a computer program; or
    - 12 (ii) a compilation of computer programs; and
  - 13 (c) the copying or communicating occurs solely for the  
14 educational purposes of:
    - 15 (i) the educational institution; or
    - 16 (ii) another educational institution, if a works remuneration  
17 notice in relation to the other educational institution is  
18 in force; and
  - 19 (d) the amount of the work copied or communicated does not  
20 unreasonably prejudice the legitimate interests of the owner  
21 of the copyright; and
  - 22 (e) the copying or communicating complies with:
    - 23 (i) any relevant agreement between the works collecting  
24 society and the body administering the educational  
25 institution; and
    - 26 (ii) any relevant determination made by the Copyright  
27 Tribunal under subsection (4).

### 28 *Broadcasts*

- 29 (2) The body administering an educational institution does not infringe  
30 copyright in copyright material by copying, or communicating a  
31 copy of, the whole or a part of the copyright material if:
- 32 (a) a broadcasts remuneration notice in relation to the  
33 educational institution is in force; and

# EXPOSURE DRAFT

## Schedule 1 Uses that do not infringe copyright

### Part 1 Main amendments

---

- 1 (b) the material is:
- 2 (i) a broadcast; or
- 3 (ii) a work, sound recording or cinematographic film
- 4 included in a broadcast; or
- 5 (iii) the content of a free-to-air broadcast, if the broadcaster
- 6 made the content available online at or after the time of
- 7 the broadcast; or
- 8 (iv) the content of a broadcast, if the content was
- 9 electronically transmitted using the internet at, or at
- 10 substantially, the same time as the broadcast; and
- 11 (c) the copying or communicating occurs solely for the
- 12 educational purposes of:
- 13 (i) the educational institution; or
- 14 (ii) another educational institution, if a broadcasts
- 15 remuneration notice in relation to the other educational
- 16 institution is in force; and
- 17 (d) the copying or communicating complies with:
- 18 (i) any relevant agreement between the broadcasts
- 19 collecting society and the body administering the
- 20 educational institution; and
- 21 (ii) any relevant determination made by the Copyright
- 22 Tribunal under subsection (4).
- 23 (3) For the purposes of Part XIA, each performer of a performance is
- 24 taken to have authorised the copying, or communicating a copy of:
- 25 (a) a broadcast of the performance; or
- 26 (b) the content of a broadcast of the performance;
- 27 if subsection (2) applies to the copying or communicating.
- 28 Note: The effect of this subsection is that no right of action and no offence
- 29 occurs in respect of the copy or communication under Part XIA
- 30 (performers' protection).
- 31 *Questions determined by Copyright Tribunal*
- 32 (4) The Copyright Tribunal may determine a question relating to
- 33 copying or communicating mentioned in subsection (1) or (2) if:
-

# EXPOSURE DRAFT

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

---

- 1 (a) the relevant collecting society and the body administering the  
2 relevant educational institution fail to determine the question  
3 by agreement under subparagraph (1)(e)(i) or (2)(d)(i); and  
4 (b) the society or the body applies to the Tribunal to have the  
5 Tribunal determine the question.

6 *Copies and communications subsequently used for other purposes*

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

## 23 **113Q Remuneration notices**

- 24 (1) A *works remuneration notice*, in relation to an educational  
25 institution, is a written notice:  
26 (a) that the body administering the educational institution gives  
27 to the works collecting society; and  
28 (b) by which the body undertakes:  
29 (i) to pay to the society equitable remuneration for licenced  
30 copying or communicating of works (other than works  
31 to which paragraph 113P(2)(b) applies); and  
32 (ii) by which the body undertakes to give to the society  
33 reasonable assistance to enable the society to collect and  
34 distribute that equitable remuneration.

# EXPOSURE DRAFT

## Schedule 1 Uses that do not infringe copyright

### Part 1 Main amendments

---

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

- 2 (2) A ***broadcasts remuneration notice***, in relation to an educational  
3 institution, is a written notice:  
4 (a) that the body administering the educational institution gives  
5 to the broadcasts collecting society; and  
6 (b) by which the body undertakes:  
7 (i) to pay to the society equitable remuneration for licenced  
8 copying or communicating of copyright material to  
9 which paragraph 113P(2)(b) applies; and  
10 (ii) by which the body undertakes to give to the society  
11 reasonable assistance to enable the society to collect and  
12 distribute that equitable remuneration.

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

- 14 (3) The copying or communicating of copyright material is ***licenced***  
15 ***copying or communicating*** if it does not infringe copyright in the  
16 copyright material only because of section 113P (disregarding  
17 section 200AB).

18 *When remuneration notice is in force*

- 19 (4) A remuneration notice:  
20 (a) comes into force on:  
21 (i) the day on which the notice is given to the relevant  
22 collecting society; or  
23 (ii) a later day specified in the notice; and  
24 (b) remains in force until it is revoked.
- 25 (5) The body administering an educational institution may revoke a  
26 remuneration notice at any time by notice in writing given to the  
27 relevant collecting society. The revocation takes effect:  
28 (a) at the end of the period of 3 months starting on the day the  
29 notice of revocation is given to the society; or  
30 (b) on a later day specified in the notice of revocation.

# EXPOSURE DRAFT

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

---

## 113R Equitable remuneration

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

## 15 113S Educational institutions must assist collecting society

- 16 (1) If a remuneration notice in relation to an educational institution is  
17 in force, the relevant collecting society may, in writing (the **entry**  
18 **notice**), notify the body administering the educational institution  
19 that the society wishes, on a day specified in the notice, to enter the  
20 premises of the educational institution for the purpose of reviewing  
21 the body's compliance with:  
22 (a) the remuneration notice; and  
23 (b) any relevant agreements and determinations mentioned in  
24 paragraph 113P(1)(e) or (2)(d).
- 25 (2) If the collecting society gives the entry notice to the body, a person  
26 authorised in writing by the society may enter the premises of the  
27 educational institution for the purpose mentioned in subsection (1).
- 28 (3) Entry onto premises under subsection (2) may only occur:  
29 (a) during ordinary working hours of the educational institution;  
30 and  
31 (b) on the day specified in the entry notice, which must not be  
32 earlier than 7 days after the day on which the entry notice is  
33 given.

# EXPOSURE DRAFT

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

**Part 1** Main amendments

---

1 (4) The body must ensure that a person who enters the premises of the  
2 educational institution under subsection (2) is provided with all  
3 reasonable and necessary facilities and assistance for the effective  
4 review of the body's compliance with the remuneration notice,  
5 agreements and determinations mentioned in paragraphs (1)(a) and  
6 (b).

7 (5) A body administering an educational institution commits an  
8 offence if:  
9 (a) the body is subject to a requirement under subsection (4); and  
10 (b) the body engages in conduct; and  
11 (c) the body's conduct contravenes the requirement.

12 Penalty: 5 penalty units.

## 13 **113T Voluntary licences**

14 (1) Nothing in this Division affects the right of the owner of the  
15 copyright in copyright material to grant a licence authorising any  
16 use of that material by the body administering an educational  
17 institution.

18 (2) Nothing in this Division affects the right of a performer in a  
19 performance (within the meaning of Part XIA) to authorise the  
20 body administering an educational institution:  
21 (a) to make, or cause to be made, a sound recording or a  
22 cinematograph film of the performance; and  
23 (b) to communicate, or cause to be communicated, that recording  
24 or film.

## 25 **113U Persons acting on behalf of bodies administering educational 26 institutions**

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



# EXPOSURE DRAFT

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

---

1 **Division 5—Collecting societies**

2 **Subdivision A—Declaration of collecting society**

3 **113V Declaration of collecting society**

- 4 (1) A body may apply, in writing, to the Minister to be declared to be:  
5 (a) the works collecting society; or  
6 (b) the broadcasts collecting society.
- 7 (2) After receiving the application, the Minister must do one of the  
8 following:  
9 (a) declare the body to be that collecting society, by notifiable  
10 instrument;  
11 (b) refuse to declare the body to be that collecting society;  
12 (c) both:  
13 (i) refer the application to the Copyright Tribunal in the  
14 way prescribed by the regulations; and  
15 (ii) notify the body of the referral.
- 16 (3) If the Minister refers the application to the Copyright Tribunal, the  
17 Tribunal may:  
18 (a) declare the body to be that collecting society, by notifiable  
19 instrument; or  
20 (b) refuse to declare the body to be that collecting society.
- 21 (4) A body cannot be declared to be the works collecting society or the  
22 broadcasts collecting society while another body is declared to be  
23 that collecting society.

24 **113W Requirements for declaration of collecting society**

- 25 (1) The Minister and the Copyright Tribunal must not declare a body  
26 to be a collecting society under section 113V unless:  
27 (a) the body is a company limited by guarantee and incorporated  
28 under a law of the Commonwealth, a State or a Territory  
29 relating to companies; and

# EXPOSURE DRAFT

## Schedule 1 Uses that do not infringe copyright

### Part 1 Main amendments

---

- 1 (b) all relevant right holders, or their agents, are entitled to  
2 become its members; and
- 3 (c) its rules prohibit the payment of dividends to its members;  
4 and
- 5 (d) its rules contain such other provisions as are prescribed,  
6 being provisions necessary to ensure that the interests of the  
7 collecting society's members who are relevant right holders  
8 or their agents are protected adequately, including provisions  
9 about:
- 10 (i) the collection of amounts of equitable remuneration  
11 payable under remuneration notices given to the society  
12 under section 113Q; and
- 13 (ii) the payment of the administrative costs of the society  
14 out of amounts collected by it; and
- 15 (iii) the distribution of amounts collected by it; and
- 16 (iv) the holding on trust by the society of amounts for  
17 relevant right holders who are not its members; and
- 18 (v) access to records of the society by its members.
- 19 (2) A **relevant right holder** is:
- 20 (a) in relation to any collecting society—the owner of the  
21 copyright in copyright material (other than a new owner of  
22 the copyright in a sound recording of a live performance,  
23 within the meaning of section 100AB); or
- 24 (b) in relation to the broadcasts collecting society—a performer  
25 in a performance (within the meaning of Part XIA).

### 113X Revocation of declaration

- 26
- 27 (1) Subsection (2) applies if the Minister is satisfied that a body  
28 declared as a collecting society under section 113V:
- 29 (a) is not functioning adequately as the collecting society; or
- 30 (b) is not acting in accordance with its rules or in the best  
31 interests of those of its members who are relevant right  
32 holders or their agents; or
- 33 (c) has altered its rules so that they no longer comply with  
34 paragraphs 113W(1)(c) and (d); or
-

# EXPOSURE DRAFT

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

---

- 1 (d) has refused or failed, without reasonable excuse, to comply  
2 with section 113Z or 113ZA.
- 3 (2) The Minister may:  
4 (a) revoke the declaration, by notifiable instrument; or  
5 (b) refer the question whether the declaration should be revoked  
6 to the Copyright Tribunal in the way prescribed by the  
7 regulations.
- 8 (3) If the Minister refers the question to the Copyright Tribunal, the  
9 Tribunal may:  
10 (a) if the Tribunal is satisfied that paragraph (1)(a), (b), (c) or (d)  
11 applies to the body—revoke the declaration, by notifiable  
12 instrument; or  
13 (b) refuse to revoke the declaration.

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

### 15 **113Y Scope of this Subdivision**

16 This Subdivision applies to:

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

### 19 **113Z Annual report and accounts**

- 20 (1) The collecting society must, as soon as practicable after the end of  
21 each financial year:  
22 (a) prepare a report of its operations during that financial year;  
23 and  
24 (b) send a copy of the report to the Minister, for presentation to  
25 the Parliament.
- 26 (2) The collecting society must keep accounting records correctly  
27 recording and explaining the transactions of the society (including  
28 any transactions as trustee) and the financial position of the  
29 society.

# EXPOSURE DRAFT

## Schedule 1 Uses that do not infringe copyright

### Part 1 Main amendments

---

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

#### 16 **113ZA Amendment of rules**

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

#### 22 **113ZB Applying to Tribunal for review of distribution arrangement**

- 23 (1) The collecting society or a member of the society may apply to the  
24 Copyright Tribunal for review of the arrangement adopted, or  
25 proposed to be adopted, by the society for distributing amounts it  
26 collects in a period.
- 27 (2) After receiving the application, the Tribunal must make an order:  
28 (a) confirming the arrangement; or  
29 (b) varying the arrangement; or  
30 (c) substituting for the arrangement another arrangement for  
31 distributing amounts the collecting society collects in the  
32 period.
-

# EXPOSURE DRAFT

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

---

- 1 (3) If the Tribunal makes an order under subsection (2) varying the  
2 arrangement or substituting for it another arrangement, the  
3 arrangement reflecting the Tribunal's order has effect as if it had  
4 been adopted in accordance with the society's rules, but does not  
5 affect a distribution started before the order was made.

## 6 **113ZC Operation of collecting society rules**

7 Division 4 and this Division apply to the collecting society despite  
8 anything in the rules of the society, but nothing in those Divisions  
9 affects the rules so far as they can operate together with those  
10 Divisions.

## 11 **3 Subsection 200(1)**

12 Repeal the subsection, substitute:

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

# EXPOSURE DRAFT

Schedule 1 Uses that do not infringe copyright

Part 2 Consequential amendments

---

1 **Part 2—Consequential amendments**

2 ***Copyright Act 1968***

3 **4 Subsection 10(1)**

4 Insert:

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

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

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

12 *collecting society* means:

- 13 (a) the works collecting society; or  
14 (b) the broadcasts collecting society; or  
15 (c) a body that a declaration in force under section 135ZZT  
16 declares to be a collecting society for the purposes of  
17 Part VC; or  
18 (d) a body that a declaration in force under section 135ZZZO  
19 declares to be a collecting society for the purposes of  
20 Part VD; or  
21 (e) a company that a declaration in force under section 153F  
22 declares to be a collecting society for the purposes of  
23 Division 2 of Part VII.

24 **5 Subsection 10(1) (at the end of paragraphs (aa), (a), (b) and**  
25 **(c) of the definition of *educational institution*)**

26 Add “or”.

27 **6 Subsection 10(1) (paragraphs (d) to (i) of the definition of**  
28 ***educational institution*)**

29 Repeal the paragraphs, substitute:

---

# EXPOSURE DRAFT

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

---

- 1 (d) a school of nursing; or  
2 (e) an undertaking within a hospital, if the undertaking conducts  
3 courses of study or training in the provision of:  
4 (i) medical services; or  
5 (ii) services incidental to the provision of medical services;  
6 or  
7 (f) a teacher education centre; or  
8 (g) an institution with the principal function of providing courses  
9 of study or training for any of the following purposes:  
10 (i) general education;  
11 (ii) the preparation of people for a particular occupation or  
12 profession;  
13 (iii) the continuing education of people engaged in a  
14 particular occupation or profession;  
15 (iv) the teaching of English to people whose first language is  
16 not English; or  
17 (h) an undertaking within a body administering an educational  
18 institution, if:  
19 (i) the educational institution is of a kind referred to in a  
20 preceding paragraph of this definition; and  
21 (ii) the principal function, or one of the principal functions,  
22 of the undertaking is the provision of teacher training to  
23 people engaged as instructors in educational institutions  
24 of a kind mentioned in a preceding paragraph of this  
25 definition, or of 2 or more such kinds; or  
26 (i) an institution, or an undertaking within a body administering  
27 an educational institution of a kind referred to in a preceding  
28 paragraph of this definition, if:  
29 (i) the principal function, or one of the principal functions,  
30 of the institution, or undertaking, is the providing of  
31 material to educational institutions of a kind referred to  
32 in a preceding paragraph of this definition, or 2 or more  
33 such kinds; and  
34 (ii) that activity is undertaken for the purpose of helping  
35 those institutions in their teaching purposes.
-

# EXPOSURE DRAFT

Schedule 1 Uses that do not infringe copyright

Part 2 Consequential amendments

---

1 **7 Subsection 10(1)**

2 Repeal the following definitions:

- 3 (a) definition of *institution assisting persons with an*  
4 *intellectual disability*;  
5 (b) definition of *institution assisting persons with a print*  
6 *disability*.

7 **8 Subsection 10(1)**

8 Insert:

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

10 *licenced copying or communicating* has the meaning given by  
11 subsection 113Q(3).

12 *Parliament*: see section 12.

13 **9 Subsection 10(1) (definition of *person with a print***  
14 ***disability*)**

15 Repeal the definition.

16 **10 Subsection 10(1)**

17 Insert:

18 *relevant right holder* has the meaning given by  
19 subsection 113W(2).

20 *remuneration notice* means:

- 21 (a) a works remuneration notice; or  
22 (b) a broadcasts remuneration notice; or  
23 (c) a notice mentioned in section 135ZZL; or  
24 (d) a notice mentioned in section 135ZZZJ.

25 *rules*, of a collecting society, means the memorandum and articles  
26 of association of the society.

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



# EXPOSURE DRAFT

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

---

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

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

4                    Repeal the paragraphs.

5                    **12 Sections 10A and 47A**

6                    Repeal the sections.

7                    **13 Subsections 49(2) and (2C) and 50(2) (notes)**

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

11                   **14 Sections 51A and 51B**

12                   Repeal the sections.

13                   **15 At the end of paragraph 53(a)**

14                   Add “and”.

15                   **16 Paragraph 53(b)**

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

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

18                   Add “and”.

19                   **18 Paragraph 53(d)**

20                   Omit “section 51A or”.

21                   **19 Subsection 54(1A)**

22                   Insert:

23                   *original form* has its ordinary meaning.

24                   **20 Section 100AH (note)**

25                   Omit “under section 135A”.

---

# EXPOSURE DRAFT

Schedule 1 Uses that do not infringe copyright

Part 2 Consequential amendments

---

1 **21 Section 100AH (note)**

2 Omit “135ZB,”.

3 **22 Sections 110B and 110BA**

4 Repeal the sections.

5 **23 Subparagraph 112(a)(i)**

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

7 **24 Subparagraph 112(a)(ii)**

8 Repeal the subparagraph, substitute:

- 9 (ii) a use of the whole or a part of that work, being a use  
10 that, because of section 49, 50, 113F, 113H, 113J,  
11 113K, 113M, 113P or 182A, does not infringe copyright  
12 in that work; or

13 **25 Subparagraph 112(b)(ii)**

14 Repeal the subparagraph, substitute:

- 15 (ii) a use of a whole or a part of one of those works, or a use  
16 of the whole or parts of some or all of those works,  
17 being a use that, because of section 49, 50, 113F, 113H,  
18 113J, 113K, 113M, 113P or 182A, does not infringe  
19 copyright in that work or those works.

20 **26 Section 112AA**

21 Repeal the section.

22 **27 Section 116AB (definition of *copyright material*)**

23 Repeal the definition.

24 **28 Section 132AA (definition of *copyright material*)**

25 Repeal the definition.

26 **29 Section 134B (definition of *copyright material*)**

27 Repeal the definition.

---

# EXPOSURE DRAFT

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

---

1 **30 Parts VA and VB**

2 Repeal the Parts.

3 **31 Section 135ZZI (definition of *rules*)**

4 Repeal the definition.

5 **32 Section 135ZZZF**

6 Repeal the following definitions:

7 (a) definition of *engage in conduct*;

8 (b) definition of *rules*.

9 **33 Section 149A**

10 Repeal the section.

11 **34 Subdivisions C, D and F of Division 3 of Part VI**

12 Repeal the Subdivisions.

13 **35 Subsection 173(8)**

14 Repeal the subsection.

15 **36 Subsection 195A(3)**

16 Repeal the subsection, substitute:

17 (3) A reference in this Part to an educational institution includes a  
18 reference to an institution that has at any time been an educational  
19 institution.

20 **37 Paragraphs 195B(1)(a) and (b)**

21 Repeal the paragraphs.

22 **38 Paragraph 195B(1)(e)**

23 Omit “135P(1A)(b), 135ZZB(1A)(b)”, substitute “113V(2)(b)”.

24 **39 Paragraph 195B(1)(f)**

25 Omit “135Q(2)(a), 135ZZC(2)(a)”, substitute “113X(2)(a)”.

# EXPOSURE DRAFT

Schedule 1 Uses that do not infringe copyright

Part 2 Consequential amendments

---

1 **40 Subsection 195B(2)**

2 Repeal the subsection.

3 **41 Subsection 195B(4)**

4 Omit “(2) or”.

5 **42 Subsection 195B(4)**

6 Omit “(2)(b) or (c) or (3)(b), as the case requires,” substitute “(3)(b)”.

7 **43 Subsections 200(3) and (4)**

8 After “subsections (1),” insert “(1A),”.

9 **44 Section 200AA**

10 Repeal the section.

11 **45 Paragraph 200AB(1)(b)**

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

13 **46 Subsection 200AB(4)**

14 Repeal the subsection.

15 **47 Subsection 200AB(6) (example 1)**

16 Omit “Example 1”, substitute “Example”.

17 **48 Subsection 200AB(6) (example 1)**

18 Omit “appliance”, substitute “device”.

19 **49 Subsection 200AB(6) (example 2)**

20 Repeal the example.

21 **50 Subsection 200AB(6A)**

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

23 **51 Subparagraph 203A(1)(b)(i)**

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

---

# EXPOSURE DRAFT

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

---

1 **52 Paragraph 203D(1)(b)**

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

4 **53 Section 203E (heading)**

5 Repeal the heading, substitute:

6 **203E Inspection of records and declarations retained in records of**  
7 **libraries and archives**

8 **54 Subsection 203E(1)**

9 Repeal the subsection, substitute:

10 (1) The owner of the copyright in a work, sound recording or  
11 cinematograph film, or the agent of such an owner, may notify the  
12 officer in charge of a library or archives, in writing, that he or she  
13 wishes to inspect, on a day specified in the notice:

14 (a) all the relevant declarations retained in the records of the  
15 library or archives that relate to the making, in reliance on  
16 section 49 or 50, of copies of works or parts of works or of  
17 copies of other subject-matter; or

18 (b) such of those declarations as:

19 (i) relate to the making, in reliance on section 49 or 50, of  
20 copies of works or parts of works or of copies of other  
21 subject-matter; and

22 (ii) were made during a period specified in the notice.

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

26 **55 Paragraphs 203F(a) and 203G(a)**

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

28 **56 Subsection 203H(1)**

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

# EXPOSURE DRAFT

Schedule 1 Uses that do not infringe copyright

Part 2 Consequential amendments

---

1 **57 Subsection 203H(2)**

2 Repeal the subsection.

3 **58 Paragraph 203H(4)(a)**

4 Repeal the paragraph, substitute:

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

7 **59 Subsection 203H(5)**

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

9 **60 Subparagraphs 203H(5)(b)(iv) and (c)(iv)**

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

11 **61 Subsections 203H(6) to (10)**

12 Repeal the subsections.

13 **62 Subsection 248A(1) (paragraphs (d) and (e) of the  
14 definition of *exempt recording*)**

15 Repeal the paragraphs, substitute:

16 (d) an indirect cinematograph film of a performance, being a  
17 film made by, or on behalf of, the body administering an  
18 institution assisting persons with a disability solely for the  
19 purpose of the provision, whether by the institution or  
20 otherwise, of assistance to persons with a disability; or

21 **63 Subsection 248A(1) (paragraph (k) of the definition of  
22 *exempt recording*)**

23 Omit “(e)”.

24 **64 Subsection 248A(1) (subparagraph (n)(ii) of the definition  
25 of *exempt recording*)**

26 Omit “(e)”.

27 **65 Subsection 248C(2)**

28 Omit “, (e)”.

---

# EXPOSURE DRAFT

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

---

1 **66 Subsection 248G(1) (note)**

2 Omit “or other”.

3 **67 Subsection 248G(1) (note)**

4 Omit “sections 135E and 135F”, substitute “Division 4 of Part IVA”.

5 **68 Subsection 248PC(7) (note 2)**

6 Omit “or other”.

7 **69 Subsection 248PC(7) (note 2)**

8 Omit “sections 135E and 135F”, substitute “Division 4 of Part IVA”.

# EXPOSURE DRAFT

Schedule 1 Uses that do not infringe copyright

Part 3 Transitional provisions

---

## 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

---



# EXPOSURE DRAFT

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

---

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;

# EXPOSURE DRAFT

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

**Part 3** Transitional provisions

---

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)(d)(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)(d).

## 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

---

# EXPOSURE DRAFT

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 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

---

# EXPOSURE DRAFT

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

**Part 3** Transitional provisions

---

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:

---

# EXPOSURE DRAFT

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

---

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.

## 12 **78 Inspection notices**

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

# EXPOSURE DRAFT

Schedule 2 Limitation on remedies available against service providers

---

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).

---

---

## 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**

---

<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 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.

---

# EXPOSURE DRAFT

## Schedule 3 Duration of copyright

---

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

---

<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

---

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

---

<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

Duration of copyright Schedule 3

---

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

---

<b>Item</b>	<b>Column 1 If ...</b>	<b>Column 2 the copyright continues to subsist until ...</b>
	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	

---

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);

# EXPOSURE DRAFT

## Schedule 3 Duration of copyright

---

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;

---

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.