



New South Wales

Library Amendment Bill 2019

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to identify legal deposit libraries and specify additional functions of those libraries,
- (b) to authorise the head librarian of a legal deposit library to direct the publisher of library material to deliver a copy of the material in the library or to make the material available for copying,
- (c) to authorise the head librarian of a legal deposit library to collect free of charge relevant library material that is made freely available by the publisher of the material,
- (d) to provide for the service of documents under the *Library Act 1939* (the *principal Act*),
- (e) to repeal the *Copyright Act 1879* and to make savings and transitional arrangements consequent on that repeal,
- (f) to make other minor amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 repeals the *Copyright Act 1879*.

Schedule 1 Amendment of Library Act 1939 No 40

Schedule 1 [1] inserts a standard definition of *Function* in the principal Act. **Schedule 1 [2]–[7]** make consequential amendments.

Schedule 1 [9] inserts proposed Part 3A (Legal deposit libraries) into the principal Act. That Part comprises proposed sections 14A–14E.

Proposed section 14A inserts a number of definitions used in the proposed Part including the definitions of *legal deposit library* which means the State Library, the Parliamentary Library of New South Wales and the Library of the University of Sydney and *relevant library material* being library material that is relevant to the collection of the library.

Proposed section 14B provides that a legal deposit library has the functions of identifying relevant library material, collecting relevant library material and maintaining relevant library material as part of the collection of the library.

Proposed section 14C authorises the head librarian of a legal deposit library to direct a person who publishes library material in New South Wales to deliver a copy of the material to the library or to make the material available for copying. The direction is to be given by order (a *legal deposit order*). A legal deposit order may apply to a class of library material (for example each edition of a newspaper) and may apply to library material not yet in existence at the time that the order is made. Failure to comply with a legal deposit order is an offence with a maximum penalty of \$1,100.

Proposed section 14D authorises the head librarian of a legal deposit library to collect free of charge relevant library material for inclusion in the collection of the library if the material has been made freely available to members of the public by the publisher of the material.

Proposed section 14E permits the head librarian of a legal deposit library to delegate the head librarian's functions under the proposed Part.

Schedule 1 [8] simplifies an existing delegation provision to make it consistent with proposed section 14E. The existing provision was inserted in the principal Act before the commencement of section 49 of the *Interpretation Act 1987* which makes much of the provision redundant.

Schedule 1 [10] provides for the service of documents under the principal Act.

Schedule 1 [11] inserts savings and transitional provisions into the principal Act that are consequential on the repeal of the *Copyright Act 1879*. The provisions of that Act requiring the legal deposit of library materials (other than section 6 which required the delivery to occur only at certain times and a written receipt to be issued) are kept in force in respect of certain library materials until a legal deposit order is made in respect of the materials.



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New South Wales

Library Amendment Bill 2019

No. , 2019

A Bill for

An Act to repeal the *Copyright Act 1879* and to amend the *Library Act 1939* with respect to legal deposit libraries; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Library Amendment Act 2019</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5
3 Repeal of Copyright Act 1879 No 20	6
The <i>Copyright Act 1879</i> is repealed.	7

Schedule 1	Amendment of Library Act 1939 No 40	1
[1] Section 2 Definitions		2
	Insert in alphabetical order in section 2 (1):	3
	Function includes a power, authority or duty, and <i>exercise</i> a function includes perform a duty.	4 5
[2] Section 3 Constitution of Council		6
	Omit “exercise and perform the powers, authorities, duties and functions” from section 3 (2).	7 8
	Insert instead “exercise the functions”.	9
[3] Section 3 (4)		10
	Omit “exercise or performance of any power, authority, duty or function”.	11
	Insert instead “exercise of a function”.	12
[4] Clause 4B Powers of Council		13
	Omit “exercise and perform, such powers, authorities, duties and functions” from section 4B (1).	14 15
	Insert instead “exercise such functions”.	16
[5] Section 4B (9)		17
	Omit “exercise and perform its powers, authorities, duties and functions”.	18
	Insert instead “exercise its functions”.	19
[6] Section 5 Duties of Council		20
	Omit “exercise and discharge such other powers, authorities, duties and functions” from section 5 (3).	21 22
	Insert instead “exercise such other functions”.	23
[7] Section 7A State Librarian		24
	Omit “exercise or performance of the State Librarian’s powers, authorities, duties and functions” from section 7A (4).	25 26
	Insert instead “exercise of the State Librarian’s functions”.	27
[8] Section 7B		28
	Omit the section. Insert instead:	29
7B Delegation by Council		30
	The Council may delegate the exercise of any function of the Council under this Act (other than this power of delegation) to:	31 32
	(a) a member of the Council, or	33
	(b) the State Librarian, or	34
	(c) a member of staff of the Council.	35
[9] Part 3A		36
	Insert after Part 3:	37

Part 3A Legal deposit libraries

14A Definitions

In this Part:

legal deposit library means the following:

- (a) the State Library,
- (b) the Parliamentary Library,
- (c) the Library of the University of Sydney.

library material includes an electronic publication.

relevant library material for a legal deposit library means library material relevant to the collection of the library.

14B Additional functions of legal deposit library

In addition to any other functions of a legal deposit library, the library has the following functions:

- (a) to identify relevant library material,
- (b) to collect relevant library material,
- (c) to maintain relevant library material as part of the collection of the library.

14C Legal deposit orders

- (1) The head librarian of a legal deposit library may, by order in writing (a *legal deposit order*) served on a person who publishes library material in this State, direct the person to:
 - (a) deliver a copy of the material free of charge to the library, or
 - (b) make the material available to the library free of charge so that a copy can be made.
- (2) A legal deposit order must identify the library material to which it applies by specifying the library material or specifying a class of library material.
- (3) A legal deposit order may apply to library material that is not yet in existence at the time the order is made and may be of unlimited duration.
- (4) A legal deposit order may specify a reasonable time within which library material must be delivered or made available for copying as required by the order.
- (5) A legal deposit order requiring library material to be delivered to the library must specify the manner and form in which the material must be delivered.
- (6) A person must not fail to comply with a legal deposit order.
Maximum penalty: 10 penalty units.
- (7) If a legal deposit order applies to more than one item of library material, a failure to comply with the order in relation to each item is a separate offence for the purposes of subsection (6).
- (8) If a person fails to deliver library material or make it available for copying as required by a legal deposit order, a further legal deposit order may be made in relation to the library material.
- (9) The regulations may make further provision for or with respect to legal deposit orders.

14D	Collection of freely available relevant library material	1
	The head librarian of a legal deposit library may, despite any Act or law of this State, collect free of charge relevant library material for inclusion in the collection of the library if the material has been made freely available to members of the public by the publisher of the material.	2 3 4 5
14E	Delegation	6
	The head librarian of a legal deposit library may delegate the exercise of any function of the head librarian under this Part (other than this power of delegation) to:	7 8 9
	(a) any member of staff of the library, or	10
	(b) any person, or any class of persons, authorised for the purposes of this section by the regulations.	11 12
[10]	Section 14F	13
	Insert before section 15:	14
14F	Service of documents	15
(1)	A document that is authorised or required by this Act or the regulations to be served on any person may be served by any of the following methods:	16 17
(a)	in the case of an individual—by personal delivery to the person,	18
(b)	by post to the address specified by the person for the service of documents of that kind,	19 20
(c)	in the case of an individual who has not specified such an address—by post to the residential or business address of the person last known to the person serving the document,	21 22 23
(d)	in the case of a corporation—by post to the registered office or any other office of the corporation or by leaving it at any such office with a person apparently over the age of 16 years,	24 25 26
(e)	by email to an email address specified by the person for the service of documents of that kind,	27 28
(f)	by any other method authorised by the regulations for the service of documents of that kind.	29 30
(2)	Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person by any other method.	31 32 33
(3)	In this section, <i>serve</i> includes give or send.	34
[11]	Schedule 2 Savings and transitional provisions	35
	Insert after clause 2:	36
3	Provisions consequent on repeal of Copyright Act 1879	37
(1)	Library material that would have been required to be delivered to a legal deposit library under the <i>Copyright Act 1879</i> had that Act not been repealed continues to be required to be delivered to the library as if that Act (other than section 6) remains in force.	38 39 40 41
(2)	This clause ceases to apply to library material when a legal deposit order applies to the library material.	42 43
(3)	In this clause:	44

legal deposit library and *legal deposit order* have the same meanings as in Part 3A of this Act.

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