

Passed by both Houses



New South Wales

# Library Amendment Bill 2019

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Council*  
2019

*Clerk of the Parliaments*



New South Wales

## **Library Amendment Bill 2019**

Act No , 2019

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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.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Library Amendment Act 2019*.

**2 Commencement**

This Act commences on the date of assent to this Act.

**3 Repeal of Copyright Act 1879 No 20**

The *Copyright Act 1879* is repealed.

## **Schedule 1 Amendment of Library Act 1939 No 40**

**[1] Section 2 Definitions**

Insert in alphabetical order in section 2 (1):

*Function* includes a power, authority or duty, and *exercise* a function includes perform a duty.

**[2] Section 3 Constitution of Council**

Omit “exercise and perform the powers, authorities, duties and functions” from section 3 (2).

Insert instead “exercise the functions”.

**[3] Section 3 (4)**

Omit “exercise or performance of any power, authority, duty or function”.

Insert instead “exercise of a function”.

**[4] Clause 4B Powers of Council**

Omit “exercise and perform, such powers, authorities, duties and functions” from section 4B (1).

Insert instead “exercise such functions”.

**[5] Section 4B (9)**

Omit “exercise and perform its powers, authorities, duties and functions”.

Insert instead “exercise its functions”.

**[6] Section 5 Duties of Council**

Omit “exercise and discharge such other powers, authorities, duties and functions” from section 5 (3).

Insert instead “exercise such other functions”.

**[7] Section 7A State Librarian**

Omit “exercise or performance of the State Librarian’s powers, authorities, duties and functions” from section 7A (4).

Insert instead “exercise of the State Librarian’s functions”.

**[8] Section 7B**

Omit the section. Insert instead:

**7B Delegation by Council**

The Council may delegate the exercise of any function of the Council under this Act (other than this power of delegation) to:

- (a) a member of the Council, or
- (b) the State Librarian, or
- (c) a member of staff of the Council.

**[9] Part 3A**

Insert after Part 3:

## 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**

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.

**14E Delegation**

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:

- (a) any member of staff of the library, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

**[10] Section 14F**

Insert before section 15:

**14F Service of documents**

- (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:
  - (a) in the case of an individual—by personal delivery to the person,
  - (b) by post to the address specified by the person for the service of documents of that kind,
  - (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,
  - (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,
  - (e) by email to an email address specified by the person for the service of documents of that kind,
  - (f) by any other method authorised by the regulations for the service of documents of that kind.
- (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.
- (3) In this section, *serve* includes give or send.

**[11] Schedule 2 Savings and transitional provisions**

Insert after clause 2:

**3 Provisions consequent on repeal of Copyright Act 1879**

- (1) Library material that would have been required to be delivered to a legal deposit library under the *Copyright Act 1879* 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.
- (2) This clause ceases to apply to library material when a legal deposit order applies to the library material.
- (3) In this clause:

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