



BERMUDA

COPYRIGHT (LIBRARIANS AND ARCHIVISTS) (COPYING OF COPYRIGHT  
MATERIAL AND LENDING OF COPIES) REGULATIONS 2014

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The Minister responsible for intellectual property, in exercise of the powers conferred by sections 56 to 63 of the Copyright and Designs Act 2004, makes the following Regulations:

Citation

1 These Regulations may be cited as the Copyright (Librarians and Archivists) (Copying of Copyright Material and Lending of Copies) Regulations 2014.

Interpretation

2 In these Regulations—

“archivist” means the archivist of a prescribed archive;

“librarian” means the librarian of a prescribed library;

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“prescribed archive” means an archive of the descriptions specified in paragraph (4) of regulation 3;

“prescribed library” means a library of the descriptions specified in paragraphs (1), (2) and (3) of regulation 3.

Descriptions of libraries and archives

3 (1) The descriptions of libraries specified in Part A of Schedule 1 are prescribed for the purposes of sections 57 and 58 of the Act except that any library of a description specified in Part A of Schedule 1 which is conducted for profit is not a prescribed library for the purposes of those sections.

(2) All libraries in Bermuda are prescribed for the purposes of sections 61, 62 and 63 of the Act as libraries the librarians of which may make and supply copies of any material to which those sections relate.

(3) Any library of a description specified in Part A of Schedule 1 which is not conducted for profit and any library of the description specified in Part B of Schedule 1 which is not conducted for profit are prescribed for the purposes of sections 61 and 62 of the Act as libraries for which copies of any material to which those sections relate may be made and supplied by the librarian.

(4) All archives in Bermuda are prescribed for the purposes of sections 62 and 63 of the Act as archives the archivists of which may make and supply copies of any material to which those sections relate and any archive in Bermuda which is not conducted for profit is prescribed for the purposes of section 62 of the Act as an archive for which copies of any material to which that section relates may be made and supplied by the archivist.

(5) In this regulation “conducted for profit”, in relation to a library or archive, means a library or archive which is established or conducted for profit or which forms part of, or is administered by, a body established or conducted for profit.

Copying by librarian of article or part of published work

4 (1) For the purposes of sections 57 and 58 of the Act, the conditions specified in paragraph (2) are prescribed as the conditions which must be complied with when the librarian makes and supplies a copy of any article in a periodical or, as the case may be, of a part of a literary, dramatic or musical work from a published edition to a person requiring the copy.

(2) The prescribed conditions are—

- (a) that no copy of any article or any part of a work shall be supplied to the person requiring the copy unless—
  - (i) he satisfies the librarian that he requires the copy for purposes of research or private study and will not use it for any other purpose; and
  - (ii) he has delivered to the librarian a declaration in writing, in relation to that article or part of a work, substantially in accordance with Form A in Schedule 2 and signed in the manner indicated in the declaration;

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- (b) that the librarian is satisfied that the requirement of such person and that of any other person—
  - (i) are not similar, that is to say, the requirements are not for copies of substantially the same article or part of a work at substantially the same time and for substantially the same purpose; and
  - (ii) are not related, that is to say, he and that person do not receive instruction to which the article or part of the work is relevant at the same time and place;
- (c) that such person is not furnished—
  - (i) in the case of an article, with more than one copy of the article or more than one article contained in the same issue of a periodical; or
  - (ii) in the case of a part of a work, with more than one copy of the same material or with a copy of more than a reasonable proportion of any work; and
- (d) that such person is required to pay for the copy a sum not less than the cost (including a contribution to the general expenses of the library) attributable to its production.

(3) Unless the librarian is aware that the signed declaration delivered to him pursuant to paragraph (2)(a)(ii) is false in a material particular, he may rely on it as to the matter he is required to be satisfied on under paragraph (2)(a)(i) before making or supplying the copy.

Copying by librarian to supply other libraries

5 (1) For the purposes of section 61 of the Act, the conditions specified in paragraph (2) are prescribed as the conditions which must be complied with when the librarian makes and supplies to another prescribed library a copy of any article in a periodical or, as the case may be, of the whole or part of a published edition of a literary, dramatic or musical work required by that other prescribed library.

- (2) The prescribed conditions are—
  - (a) that the other prescribed library is not furnished with more than one copy of the article or of the whole or part of the published edition;
  - (b) that, where the requirement is for a copy of more than one article in the same issue of a periodical, or for a copy of the whole or part of a published edition, the other prescribed library furnishes a written statement to the effect that it is a prescribed library and that it does not know, and could not by reasonable inquiry ascertain, the name and address of a person entitled to authorise the making of the copy; and
  - (c) that the other prescribed library shall be required to pay for the copy a sum not less than the cost (including a contribution to the general expenses of the library) attributable to its production.

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Copying by librarian or archivist to preserve or replace items in a permanent collection

6 (1) For the purposes of section 62 of the Act, the conditions specified in paragraph (2) are prescribed as the conditions which must be complied with before the librarian or, as the case may be, the archivist makes a copy from any item in the permanent collection of the library or archive in order to preserve or replace that item in the permanent collection of that library or archive or to replace that item in the permanent collection of another prescribed library or archive.

(2) The prescribed conditions are—

- (a) that the item in question is an item in the part of the permanent collection maintained by the library or archive wholly or mainly for the purposes of reference on the premises of the library or archive, or is an item in the permanent collection of the library or archive which is available on loan only to other libraries or archives;
- (b) that it is not reasonably practicable for the librarian or archivist to purchase a copy of that item to fulfil the purpose under section 62(1)(a) or (b) of the Act;
- (c) that the other prescribed library or archive furnishes a written statement to the effect that the item has been lost, destroyed or damaged and that it is not reasonably practicable for it to purchase a copy of that item, and that if a copy is supplied it will only be used to fulfil the purpose under section 62(1)(b) of the Act; and
- (d) that the other prescribed library or archive shall be required to pay for the copy a sum not less than the cost (including a contribution to the general expenses of the library or archive) attributable to its production.

Copying by librarian or archivist of certain unpublished works

7 (1) For the purposes of section 63 of the Act, the conditions specified in paragraph (2) are prescribed as the conditions which must be complied with in the circumstances in which that section applies when the librarian or, as the case may be, the archivist makes and supplies a copy of the whole or part of a literary, dramatic or musical work from a document in the library or archive to a person requiring the copy.

(2) The prescribed conditions are—

- (a) that no copy of the whole or part of the work shall be supplied to the person requiring the copy unless—
  - (i) he satisfies the librarian or archivist that he requires the copy for purposes of research or private study and will not use it for any other purpose; and
  - (ii) he has delivered to the librarian or archivist a declaration in writing, in relation to that work, substantially in accordance with Form B in Schedule 2 and signed in the manner indicated in the declaration;

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- (b) that such person is not furnished with more than one copy of the same material; and
- (c) that such person is required to pay for the copy a sum not less than the cost (including a contribution to the general expenses of the library or archive) attributable to its production.

(3) Unless the librarian or archivist is aware that the signed declaration delivered to him pursuant to paragraph (2)(a)(ii) is false in a material particular, he may rely on it as to the matter he is required to be satisfied on under paragraph (2)(a)(i) before making or supplying the copy.

Lending of copies by libraries

8 The Bermuda National Library is prescribed for the purposes of section 60 of the Act.

Revocation

9 The Copyright (Libraries) Regulations 1964 and the Copyright (Notice of Publication) Regulations 1964 are revoked.

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SCHEDULE 1

PART A

(regulations 3(1) and (3))

- 1 Bermuda National Library.
- 2 Bermuda College Library.
- 3 Any library of an educational establishment.
- 4 Any library conducted for or administered by or as part of the Legislature, a Government Department, a Government Board or any agency of Government.
- 5 Any other library conducted for the purpose of facilitating or encouraging the study of bibliography, education, fine arts, history, languages, law, literature, medicine, music, philosophy, religion, science (including natural and social science) or technology, or administered by any establishment or organisation which is conducted wholly or mainly for such a purpose.

PART B

(regulation 3(3))

Any library outside Bermuda which is conducted wholly or mainly for the purpose of facilitating or encouraging the study of bibliography, education, fine arts, history, languages, law, literature, medicine, music, philosophy, religion, science (including natural and social science) or technology.

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SCHEDULE 2

FORM A

(regulation 4)

COPYRIGHT AND DESIGNS ACT 2004

DECLARATION: COPY OF ARTICLE OR PART OF PUBLISHED WORK

To:

The Librarian of .....Library

[*Address of Library*]

1 Please supply me with a copy of:

\*the article in the periodical, the particulars of which are ( )

\*the part of the published work, the particulars of which are ( )

required by me for the purposes of research or private study.

2 I declare that—

(a) I have not previously been supplied with a copy of the same material by you or any other librarian;

(b) I will not use the copy except for research or private study and will not supply a copy of it to any other person; and

(c) to the best of my knowledge no other person with whom I work or study has made or intends to make, at or about the same time as this request, a request for substantially the same material for substantially the same purpose.

3 I understand that if the declaration is false in a material particular the copy supplied to me by you will be an infringing copy and that I shall be liable for infringement of copyright as if I had made the copy myself.

\*\*Signature .....

Date .....

Name .....

Address .....

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*\* Delete whichever is inappropriate.*

*\*\* This must be the personal signature of the person making the request. A stamped or typewritten signature, or the signature of an agent, is NOT acceptable.*

FORM B

(Regulation 7)

COPYRIGHT AND DESIGNS ACT 2004

DECLARATION: COPY OF WHOLE OR PART OF UNPUBLISHED WORK

To:

The \*Librarian/Archivist of ..... \*Library/Archive

[Address of Library/Archive]

1 Please supply me with a copy of:

the \*whole/following part (*particulars of part*) of the (*particulars of the unpublished work*) required by me for the purposes of research or private study.

2 I declare that—

(a) I have not previously been supplied with a copy of the same material by you or any other \*librarian/archivist;

(b) I will not use the copy except for research or private study and will not supply a copy of it to any other person; and

(c) to the best of my knowledge the work had not been published before the document was deposited in your \*library/archive and the copyright owner has not prohibited copying of the work.

3 I understand that if the declaration is false in a material particular the copy supplied to me by you will be an infringing copy and that I shall be liable for infringement of copyright as if I had made the copy myself.

\*\*Signature .....

Date .....

Name .....



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Address .....

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*\* Delete whichever is inappropriate.*

*\*\* This must be the personal signature of the person making the request. A stamped or typewritten signature, or the signature of an agent, is NOT acceptable.*

Made this 31st day of January 2014

Minister of Home Affairs