

DEPOSIT OF ELECTRONIC PUBLICATIONS WITH THE NATIONAL
LIBRARY OF AUSTRALIA

Guide to requirements for publishers

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1. Introduction

The National Library of Australia has a mandate to collect and preserve Australia's distinctive and diverse documentary heritage under the [National Library Act 1960](#). Legal deposit of digital publications enables the National Library to comprehensively collect the nation's digital publishing output and ensure its safekeeping for the long term.

Legal deposit was established as a statutory principle shortly after Federation in the *Copyright Act 1912* (s. 40), with book publishers required to provide the best copy to the Librarian of the Commonwealth Parliament. For almost half a century the *Copyright Act 1968* (s. 201) required publishers to deposit printed publications with the National Library of Australia.

In 2015, the Act was amended to repeal s. 201 (and s. 241), extending legal deposit to include electronic, including online material, through the new provisions in ss. 195CA-195CJ, effective from 17 February 2016.

1.1 Purpose

This statement details requirements for publishers to comply with the new provisions of the (ss. 195CA-195CJ) to deposit electronic publications with the National Library of Australia. Printed materials are still required to be deposited to the Library as stated in s. 195CB (1) of the Act. See the Library's website for further information about [legal deposit](#).

Related policies, such as the [Collection Development Policy](#) are also available from the Library's website.

1.2 Principles

The Library's legal deposit program is guided by the following principles:

- Cost effective and efficient compliance
- Comprehensiveness in collecting scope
- Consultation and cooperation with stakeholders
- Working with available technologies
- Timely, efficient and sustainable preservation processes.

2. Legal framework

Under provisions in the [Copyright Act 1968](#) (the Act), Australian publishers are legally required to deposit the best copy of each publication to the National Library free of charge, whether in electronic or a physical format. This is referred to as 'legal deposit' and ensures that a

comprehensive collection of material relating to Australia and its people is developed, described, maintained and preserved for the use of current and future generations. By depositing material with or in the National Library, publishers make their contribution towards this national objective.

3. Publications required for deposit

Section 195CB of the Act requires publishers to deposit 'National Library' material with the Library. As defined in s. 195CE of the Act, material includes publications in electronic form that are literary, dramatic, musical or artistic works or an edition of such work, or a combination, for example, multimedia works. Works may be distributed on physical media or by the internet or other platform.

Publications are not limited by format and include online material made available in the public domain. This material may be dynamic, mutable and not fixed in the form in which it is made available to the public. Electronic library material includes ebooks, ejournals, emagazines, enewsletters, maps and music scores published in electronic form, as well as websites or parts of websites and other published documents and information distributed via the internet, including public social media.

3.1 Publications excluded from deposit

Materials excluded from legal deposit at the National Library include publications that are:

- a) primarily audiovisual (i.e. sound recordings, video or film);
- b) primarily gaming material
- c) primarily an application (i.e. content does not meet the definition of library material);
- d) copyright infringing;
- e) confidential;
- f) shared exclusively by means of a private network, for example an intranet;
- g) comprised of personal data only made available to a restricted group of persons; or,
- h) transactional records, including databases, of business services.

3.2 Complete copy of works

Section.195CD(1) of the Act requires that the copy of the work deposited be a copy of the whole work including all illustrations, audio-visual elements and, in the case of material available online, be in the form in which it was made available online. Additional elements constituting a complete copy will include the embedded computer scripts, programs and software that are necessary to provide and render the style, presentation and functionality of the work as published.

3.3 Multimedia material

Where a work that is primarily literary, dramatic or artistic includes other media elements, such as sound recordings or video, which are an intrinsic part of the work, all media elements should be deposited as part of the work.

3.4 Dependent software and additional information

In order that the work may be preserved and made accessible both now and in the future, the publisher must deposit with the electronic work:

- a) a copy of any embedded computer program and information (including tools, data, instructions) integral to the functionality or necessary to fully access the work; and
- b) a copy of any manual or other informational material that accompanies the work and is made available to the public.

3.5 Versions of the same work in multiple formats

If a work is published in different formats and is in substance the same content—for example a work produced in print and ebook formats—the publisher is only required to deposit the material in one format.

If a work is published in different formats and has substantive differences—for example if one version contains additional material—the more complete version, being the best copy, should be deposited.

If a work published in different formats contains different content in each format, both versions should be deposited.

If the publisher is uncertain about which version to deposit—for example if there is no substantive difference in the content in different formats—the publisher should contact the Library and the Library will determine the preferred format to be deposited.

It is not the Library's intention to collect multiple versions of the same work under the legal deposit provisions, but more than one version may be acquired when delivery of an online version of a work is requested and delivered (by automated processes) subsequent to the publisher delivering an offline version of the work.

4. Online and offline publications

For the purposes of the Act, electronic library material is either 'available online' or 'not available online'. Material 'available online' is communicated on (or via) the internet. This material has

different deposit requirements to material not available online. The National Library will refer to 'not online' materials as 'offline' material.

- a) Electronic material 'available offline' is distributed on a physical format carrier and supplied to the public (i.e. in a published form), whether for sale or free, by a person in Australia who is the publisher.
- b) Electronic material 'available online' is material made available to the public in Australia whether for sale or free, via the internet or some other platform. This includes:
 - i. Material published on a website within the '.au' top level domain name; or
 - ii. Material published on a website where the domain name is owned or licensed by an Australian resident;
 - iii. Material accessible online on a website within Australia, where the Director-General of the Library or delegate considers the material should be included in the national collection; or,
 - iv. Material published on the internet, other than websites, in Australia or by an Australian resident.

Online publishing is not constrained by geographic location, and material by Australians or about Australia can be published anywhere in the world. The Act enables any material in which copyright subsists under the *Copyright Act 1968* to be requested by the Director-General or delegate to be deposited with the National Library. This includes works by Australian residents that are supplied via hosting or online publishing services outside Australia and works by non-Australian residents that meet the Library's national collecting objectives.

5. Publisher definition

The publisher of electronic library material is the person or entity responsible for the material (the 'work') being made available to the public in the electronic form.

- For electronic material published in Australia online on the '.au' top level domain the publisher is considered to be the website owner or the person originating the material and who determines how it is made available to the public.
- For electronic material published online on a publishing or hosting service or on a domain other than the .au top level Australian domain by a resident of Australia, the publisher is considered to be the person originating the material and who determines how it is made available to the public.

- For electronic material published online on the web outside Australia and constituting material subject to delivery, the National Library will generally consider the publisher to be the website owner unless advised otherwise.
- For electronic material published on a physical carrier such as a CD, DVD or USB flash drive by a resident of Australia, the publisher is considered to be the person originating the material and who determines how it is made available to the public.

6. How and when to deposit electronic material to the National Library

6.1 Offline electronic publications

The publisher of offline publications is required to deposit the material at their expense and within one month after publication, as stated in s. 195CD(2)(a) of the Act, to the following address:

Legal Deposit Unit
National Library of Australia
Canberra ACT 2600

If a subsequent edition, part, issue, volume or number of offline electronic library material is published it must be deposited with the National Library within one month of publication.

6.2 Online electronic publications

The publisher of online electronic publications is required to deposit the material only when requested by the Director-General of the National Library or delegate, as stated in s. 195CC of the Act.

The Library may request the deposit of online electronic publications at any time after publication. Requests may be made via electronic communication. For material available on a website, initial requests will generally be issued via a web harvesting robot, that is, 'machine-to-machine'.

In such cases, the request will be made by the National Library's web harvesting robot, identifying itself as the legal deposit harvester to the target web server. Publisher compliance is fulfilled when the server delivers the requested content to the harvester. Person-to-person interaction is not required.

Where this automated request and delivery process does not result in the successful or sufficient delivery of content to the National Library (i.e. publications only accessible by pay walls or subscriptions), other notices of request will be used and compliance arranged in consultation with the publisher.

In summary, where the National Library makes a request for deposit:

- a) If the material is freely available on a website, the publisher must not do anything which would prevent the National Library from automatically collecting (with a robot harvester) the material from that website.
- b) If the material is available on a website but is not freely accessible, the publisher must deliver the material through the edeosit service or other means as agreed with the Library, within one month of being requested.
- c) If the material is not available on a website but is online material, the publisher must deliver the material through the edeosit service or other means as agreed with the Library, within one month of being requested.

For websites that change either regularly or occasionally, or other dynamic online content, the National Library will determine how often it issues a requirement to deliver notification, based on the nature of the material. The request and delivery mechanism will be by automated mechanisms whenever possible.

6.3 Offline and Online

If a work is published so that it is available both offline and online, the offline version should be deposited within the mandated time (one month from publication) unless the Director-General or delegate has requested the online version be deposited within the required delivery period for the offline version.

6.4 Principles of cooperation and automation

The National Library acknowledges the complexity, diversity and dynamic nature of electronic materials and seeks to make compliance with provisions of the Act to deposit such materials as efficient as possible for both the publisher and the National Library.

To this end, automated processes for requesting delivery (when applicable) and effecting delivery are preferred. However in cases when there are constraints and barriers to automated delivery, or in cases when there may be uncertainty regarding the material to be delivered, the National Library will consult and cooperate with publishers to achieve efficient delivery of the best and complete copy of the requested material.

Compliance costs are to be borne by publishers, except to the extent the National Library incurs costs itself in collecting online material (for example in harvesting content from the web) in which case the National Library will bear the costs.

The National Library will not provide financial re-imbusement to publishers but will work with them to minimise costs and to put in place cost-effective workflows.

7. Requirements to remove technological protection measures

As stated in s. 195CD(1)(c)(i) of the Act, if electronic library material required to be deposited to the National Library is protected by a technological protection measure (TPM), the publisher must provide the National Library with a version that does not contain the TPM. The TPM-free copy should be as near to the 'best copy' as possible; that is, containing all content and functionality less the protection measures.

This requirement is to enable the National Library to achieve the objectives to preserve and provide access to the material. The National Library cannot undertake work to preserve material that is protected by a TPM, which in many cases may not be possible.

There are many types of TPMs which are used for different purposes. For the purpose of obligations under the Act, TPMs may include, but are not limited to, passwords, encryption, copy limiting, time limiting, reading limiting and watermarking.

When the publisher states that they are unable to deposit the material without a TPM, the National Library will consult with the publisher to understand the nature of the protection measure in place and consider options for preservation. If the National Library concludes that the material cannot be preserved, the National Library may not collect the material.

Material deposited with the National Library without a TPM will be managed using secure data management systems (refer paragraph 10).

8. Review and amendment of this document

This document will be periodically reviewed and may be amended to clarify obligations or to respond to changing technology and publishing environments.