

GUERNSEY STATUTORY INSTRUMENT

2011 NO. 14

**The Copyright (Prescribed Libraries and Archives and  
Copying of Copyright Material)  
Regulations, 2011**

<i>Made</i>	<i>12 April, 2011</i>
<i>Coming into force</i>	<i>12 April, 2011</i>
<i>Laid before the States</i>	<i>, 2011</i>

**THE COMMERCE AND EMPLOYMENT DEPARTMENT**, in exercise of the powers conferred on it by sections 50(1), (2), (3) and (6) and 51 to 57 of the Copyright Ordinance, 2005<sup>a</sup> ("the Ordinance") and all other powers enabling it in that behalf, hereby makes the following regulations:-

**Prescribed libraries or archives.**

1. (1) The libraries and archive and descriptions of libraries and archives in Schedule 1 are prescribed for the purposes of sections 51 and 52 of the Ordinance, provided that they are not conducted for profit.

(2) All libraries and archives in the Bailiwick are prescribed for the purposes of sections 54 to 57 but only libraries and archives that are not conducted for profit may be supplied with copies of material by the librarian of a prescribed

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<sup>a</sup> Ordinance No. XIX of 2005

library or the archivist of a prescribed archive.

(3) The libraries and archives in Schedule 2 are prescribed for the purposes of sections 55 and 56 of the Ordinance and may be supplied with copies of material by the librarian of a prescribed library or the archivist of a prescribed archive.

(4) 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.**

2. (1) For the purposes of sections 51 and 52 of the Ordinance the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which must be complied with when the librarian of a prescribed library 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 same unless -
  - (i) he satisfies the librarian that he requires the copy for purposes of research for a non-commercial purpose 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 3 to these Regulations and signed in the manner therein indicated,
  
- (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 published 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 equivalent to but 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) above 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) above before making or supplying the copy.

**Copying by librarian to supply other libraries.**

3. (1) For the purposes of section 55 of the Ordinance the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which must be complied with when the librarian of a prescribed library 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, or
- (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 equivalent to but not exceeding the cost (including a contribution to the general expenses of the library) attributable to its production.

**Copying by librarian or archivist for the purposes of replacing items in a permanent collection.**

4. (1) For the purposes of section 56 of the Ordinance the conditions specified in paragraph (2) of this regulation 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 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) if the copy is for the purpose of preserving the permanent collection of the library or archive, that it is not reasonably practicable for the librarian or

archivist to purchase a copy of that item to fulfil the purpose under section 56(1)(a) or (b) of the Ordinance,

- (c) if the copy is for the purpose of preserving the permanent collection of another library or archive:
  - (i) 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 56(1)(b) of the Ordinance, and
  - (ii) that the other prescribed library or archive shall be required to pay for the copy a sum equivalent to but not exceeding 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.**

5. (1) For the purposes of section 57 of the Ordinance the conditions specified in paragraph (2) of this regulation 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 an unpublished 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 same unless -
    - (i) he satisfies the librarian or archivist that he requires the copy for purposes of research for a non-commercial purpose or private study and will not use it for any other purpose, and
    - (ii) he has delivered to the librarian or, as the case may be, the archivist a declaration in writing, in relation to that work, substantially in accordance with Form B in Schedule 3 to these Regulations and signed in the manner therein indicated,
  - (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) above 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) above before making or supplying the copy.

**Interpretation.**

6. (1) In these Regulations -

"**the archivist**" means the archivist of a prescribed archive and includes a person acting on his behalf,

"**the Department**" means the Commerce and Employment Department,

"**the librarian**" means the librarian of a prescribed library and includes a person acting on his behalf,

"**prescribed archive**" means an archive of the descriptions specified in paragraph (4) of regulation 1

"**prescribed library**" means a library of the descriptions specified in paragraphs (1), (2) and (3) of regulation 1,

and other expressions, except where the context excludes, have the same meanings as in the Ordinance.

(2) The Interpretation (Guernsey) Law, 1948<sup>b</sup> applies to the interpretation of these regulations as it applies to the interpretation of an enactment.

**Commencement.**

7. These Regulations shall come into force on the 12<sup>th</sup> day of April 2011.

**Citation.**

8. These Regulations may be cited as the Copyright (Prescribed Libraries and Archives and Copying of Copyright Material) Regulations, 2011.

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<sup>b</sup> Orders en Conseil Vol. XIII, p.355.

## SCHEDULE 1

Regulation 1 (1)

### LIBRARIES AND ARCHIVES NOT CONDUCTED FOR PROFIT

- (a) The Guille-Allès library,
- (b) The Priaulx library,
- (c) The Royal Court library,
- (c) The States Archive Service,
- (d) All libraries administered by the Department for Education, including, for the avoidance of doubt any library of a school,
- (e) Any library administered by, or as part of, a department of the States of Guernsey,
- (f) All libraries and archives administered by, or as part of, the States of Alderney,
- (g) All libraries and archives administered by, or as part of, the Chief Pleas of Sark,
- (h) Any other library conducted for the purpose of facilitating or encouraging the study of bibliography, education, fine arts, history, languages, law, literature, mathematics, 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.

## SCHEDULE 2

### Regulation 1(3)

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

SCHEDULE 3

Regulations 2 and 5

FORM A

DECLARATION: COPY OF ARTICLE OR PART OF PUBLISHED WORK

To:

The Librarian of.....Library

Address of Library]

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 for a non-commercial purpose 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

DECLARATION: COPY OF WHOLE OR PART OF UNPUBLISHED WORK

To:

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

Address of Library/Archive]

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 or archivist;
- (b) I will not use the copy except for research for a non-commercial purpose 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.....

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.

Dated this 12th day of April, 2011

A handwritten signature in black ink, appearing to read 'C McNulty Bauer', written over a horizontal dotted line.

C McNulty Bauer

Minister of the States Commerce and Employment Department

For and on behalf of the Department

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**EXPLANATORY NOTE**

These Regulations prescribe libraries and archives for the purpose of sections 50-57 of the Copyright Ordinance, 2005. Sections 50-57 of the Ordinance set out arrangements relating to copying which only apply to the libraries and archives that have been prescribed. These Regulations also prescribe certain conditions with which the prescribed libraries and archives must comply in order to avoid infringing the provisions of the Copyright Ordinance, 2005.

These Regulations came into force on the 12<sup>th</sup> day of April 2011.

