

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
THE SENATE

Presented and read a first time

(Attorney-General)

A BILL

FOR

**An Act to repeal the *Copyright Amendment Act 1989*, to
re-enact certain provisions of that Act, and for related
purposes**

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Copyright Amendment (Re-enactment) Act 1993*.

5 **Commencement**

2.(1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.

(2) The amendments made by this Act are taken to have commenced on the dates set out in the Schedule.

Interpretation

3. In this Act:

“Amending Act” means the *Copyright Amendment Act 1989*;

“Principal Act” means the *Copyright Act 1968*¹.

Re-enactment of certain provisions of Amending Act

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4. The Principal Act is amended in the terms set out in:

(a) sections 3 to 14, 17, 18, 21, 23, 24, 26 and 28 of the Amending Act; and

(b) the Schedule to the Amending Act.

Insertion of new Part VB

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5. After Part VA of the Principal Act the Part set out in section 15 of the Amending Act (new Part VB) is inserted.

Insertion of new sections 153C and 153D

6. After section 153B of the Principal Act the sections set out in section 19 of the Amending Act (new sections 153C and 153D) are inserted.

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Insertion of new section 195B

7. After section 195A of the Principal Act the following section is inserted:

Review of certain decisions

“195B.(1) For the purposes of this section, the following decisions are reviewable decisions:

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(a) a decision of the Attorney-General refusing to make a declaration in respect of a body or institution under subsection 10A(1), 135P(1) or 135ZZB(1);

(b) a decision of the Attorney-General revoking a declaration made in respect of a body or institution under subsection 10A(1), 135P(1) or 135ZZB(1);

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(c) a decision of the Comptroller-General of Customs not to grant permission under subsection 135(6).

“(2) Where the Attorney-General makes a reviewable decision referred to in paragraph (1)(a) or (b), the Attorney-General shall cause to be sent to the body or institution concerned a written notice containing:

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(a) the terms of the decision; and

(b) a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision; and

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(c) except where subsection 28(4) of that Act applies—a statement to the effect that the body or institution may request a statement under section 28 of that Act.

“(3) Where the Comptroller-General of Customs makes a reviewable decision referred to in paragraph (1)(c), the Comptroller-General shall cause to be sent to the owner or importer whose interests are affected by the decision a notice containing:

- 5 (a) the terms of the decision; and
(b) a statement to the effect that where no appeal under subsection 135(6) has been made to the Minister for Industry, Technology and Commerce against the decision, the owner or importer may, subject to the *Administrative Appeals Tribunal Act 1975*, apply to the
10 Administrative Appeals Tribunal for review of the decision; and
(c) except where subsection 28(4) of that Act applies—a statement to the effect that the owner or importer may request a statement under section 28 of that Act.

15 “(4) Failure to include in a notice under subsection (2) or (3) a statement of the kind referred to in paragraph (2)(b) or (c) or (3)(b) or (c), as the case requires, does not affect the validity of the decision to which the notice relates.

“(5) Subject to subsection (6), application may be made to the Administrative Appeals Tribunal for review of a reviewable decision.

20 “(6) Application may not be made to the Administrative Appeals Tribunal for review of a reviewable decision referred to in paragraph (1)(c) if a person has appealed to the Minister for Industry, Technology and Commerce against the decision under subsection 135(6).

25 “(7) Where an application is made to the Administrative Appeals Tribunal for review of a reviewable decision referred to in paragraph (1)(c), a person is not entitled to appeal to the Minister for Industry, Technology and Commerce against that decision under subsection 135(6).

“(8) In this section:

30 ‘**decision**’ has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.”

Note: This section re-enacts the terms of section 22 of the Amending Act, except that the new section 195B does not include references to section 135ZZU. That section was inserted in the Principal Act by a provision of the Amending Act which is not re-enacted by this Act.

Application and repeal of section 200A

35 **8.(1)** Section 200A of the Principal Act is taken to have ceased to apply, on 29 January 1990, to an eligible item that is a sound broadcast, a television broadcast, or a work, sound recording or cinematograph film included in a sound or television broadcast.

(2) Section 200A of the Principal Act is taken to have been repealed on 1 July 1990.

Note: This section re-enacts the terms of section 25 of the Amending Act.

Inspection of records and declarations retained by libraries, archives or institutions

9.(1) Section 203E of the Principal Act is amended as set out in paragraphs 27(1)(a) to (p) of the Amending Act.

(2) Section 203E of the Principal Act is further amended as set out in paragraphs 27(3)(d) and (f) of the Amending Act. 5

Savings

10. In spite of anything in this Act:

(a) the Principal Act, as in force immediately before 29 January 1990, continues to apply in relation to a copy of a television broadcast made in reliance on section 200A of the Principal Act; and 10

(b) the Principal Act, as in force immediately before 1 July 1990, continues to apply in relation to a copy of a work or other subject-matter made in reliance on section 53A, 53B, 53C, 53D or 200A of the Principal Act; 15

until the end of the period of 4 years beginning on the day on which the copy was made.

Note: This section re-enacts the terms of section 29 of the Amending Act.

Regulations

11. Where:

(a) regulations were made, before the commencement of this section, under a provision of the Principal Act as purported to be amended by the Amending Act; and 20

(b) the provision of the Principal Act as amended by this Act is in the same terms as the provision referred to in paragraph (a);

those regulations are taken to have been made under the Principal Act as amended by this Act and to have taken effect on the day they purported to take effect. 25

Repeal of Amending Act

12. The *Copyright Amendment Act 1989* is repealed.

SCHEDULE

Subsection 2(2)

COMMENCEMENT OF RE-ENACTED PROVISIONS

Provision of Amending Act setting out the terms of the amendment	Provision of this Act enacting the amendment	Date of commencement
Sections 3, 5, 7, 12, 13, 21 and 28	Section 4	1 October 1989
Section 22	Section 7	1 October 1989
Sections 4, 14, 18 and 23	Section 4	29 January 1990
Section 25	Section 8	29 January 1990
Section 27	Section 9	29 January 1990
Section 29	Section 10	29 January 1990
Sections 6 and 24 and paragraph 26(a)	Section 4	1 July 1990
Section 15	Section 5	1 July 1990
Section 19	Section 6	1 July 1990
Paragraphs 26(b)-(f)	Section 4	2 July 1990
Sections 8-11 and 17	Section 4	1 October 1990
Schedule items 1, 4, 10, 12, 14, 19, 25 and 26	Section 4	1 October 1989
Schedule items 48, 49 and 53	Section 4	29 January 1990
Schedule items 2, 3, 6-9, 11, 13, 15, 18, 21-24, 27-47 and 50-52	Section 4	1 July 1990
Schedule items 5, 16, 17 and 20	Section 4	1 October 1990

Note: The dates shown in this table are the dates on which the provisions of the Amending Act were, under the Amending Act, proclaimed to commence.

NOTE

1. No. 63, 1968, as amended. For previous amendments, see No. 216, 1973; Nos. 37 and 91, 1976; No. 160, 1977; No. 19, 1979; No. 154, 1980; Nos. 42 and 61, 1981; No. 113, 1981 (as amended by No. 154, 1982); Nos. 26, 80 and 154, 1982; Nos. 7, 80, 91 and 136, 1983; Nos. 43 and 165, 1984; Nos. 65 and 67, 1985; Nos. 78 and 168, 1986; No. 23, 1987; No. 146, 1988; Nos. 28 and 32, 1989; Nos. 174 and 180, 1991; and Nos. 105 and 167, 1992.



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