

THE COPYRIGHT ACT

REGULATIONS

*(under sections 61 (2) and 150)*THE COPYRIGHT (LIBRARIANS AND ARCHIVISTS) (COPYING OF
COPYRIGHT MATERIAL) REGULATIONS, 1993

*(Made by the Prime Minister on the 12th day of August, 1993 and
having effect on the 1st day of September, 1993, the date of
operation of the Act)*

L.N. 105/93

1. These Regulations may be cited as the Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations, 1993.

Short title.

2.—(1) In these Regulations—

“prescribed archive” means any archive of a description specified in regulation 3 (4) and (5); and

Interpretation.

“prescribed library” means any library of a description specified in regulation 3 (1), (2) and (3).

3.—(1) The libraries described in Part A of the First Schedule are prescribed for the purposes of section 62 of the Act, so, however, that any library so described that is conducted for profit shall not be a prescribed library for the purposes of that section.

Prescribed libraries and archives. First Schedule.

(2) All libraries in Jamaica are prescribed for the purposes of sections 63, 64 and 65 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 that—

(a) satisfies the description specified in Part A or B of the First Schedule; and

(b) is not conducted for profit,

is prescribed for the purposes of sections 63 and 64 of the Act as a library for which copies of any material to which those sections relate may be made and supplied by the librarian of a prescribed library.

(4) All archives in Jamaica are prescribed for the purposes of sections 64 and 65 of the Act as archives which may make and supply copies of any material to which those sections relate.

(5) Any archive in Jamaica which is not conducted for profit is prescribed for the purposes of section 64 of the Act as an archive

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for which copies of any material to which that section relates may be made and supplied by the archivist of a prescribed archive.

(6) 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 section 62 of the Act the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which shall 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 it 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 the form set out as Form A in the Second Schedule and signed in the manner therein indicated;

Second
Schedule.
Form A.

(b) that the librarian is satisfied that the requirements 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 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 is entitled to rely on it as to the matter in respect of which he is required to be satisfied under paragraph (2) (a) (i) before making or supplying the copy.

5.—(1) For the purposes of section 63 of the Act 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.

Copying by
librarian to
supply other
libraries.

(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 authorize 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.

Copying by
librarian, etc.
to replace
items in a
permanent
collection.

6.—(1) For the purposes of section 64 of the Act the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which shall 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 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) that it is not reasonably practicable for the librarian or archivist to purchase a copy of that item to fulfil the purpose under section 64 (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 64 (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 65 of the Act the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which shall 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 same 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 purposes; 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 the form set out as Form B in the Second Schedule 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.

Second
Schedule.
Form B.

(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 is entitled to rely on it as to the matter in respect of which he is required to be satisfied under paragraph (2) (a) (i) before making or supplying the copy.

FIRST SCHEDULE

(Regulation 3)

PART A

1. Any library administered by the Jamaica Library Service.
2. The National Library of Jamaica and the Library of the University of the West Indies.
3. Any library of a school within the meaning of section 2 of the Education Act and any library of a description of educational establishment specified in the Copyright (Educational Establishments) Order, 1993.
4. Any parliamentary library or library administered as part of a government department or any library conducted for or administered by an 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 organization which is conducted wholly or mainly for such a purpose.

PART B

Any library outside Jamaica 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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SECOND SCHEDULE (Regulations 4 and 7)

FORM A

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

.....
.....

*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.

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FORM B

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 or 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

Address

.....

.....

*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.