



Copyright (Marrakesh Treaty Implementation) Amendment Act 2019

Public Act 2019 No 43
Date of assent 12 August 2019
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Copyright (Marrakesh Treaty Implementation) Amendment Act 2019.

2 Commencement

- (1) This Act comes into force on a date appointed by the Governor-General by Order in Council.
- (2) That date must be the date on which the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, done at Marrakesh on 27 June 2013, enters into force for New Zealand.

3 Principal Act

This Act amends the Copyright Act 1994 (the **principal Act**).

Part 1
Amendments to principal Act

4 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

accessible format copy means a copy of a published literary, dramatic, musical, or artistic work, or a part of the work, in an alternative manner or form that gives persons who have a print disability access to the work

authorised entity means—

- (a) an entity of a type set out in section 69(1); and
- (b) in relation to the import into and export from New Zealand of accessible format copies, includes an entity authorised or recognised by the government of the relevant Marrakesh Treaty country as an authorised entity for the purposes of the Treaty

charitable entity has the meaning given in section 4(1) of the Charities Act 2005

Marrakesh Treaty country means a Contracting Party to the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, done at Marrakesh on 27 June 2013

print disability, in relation to a person,—

- (a) means an impairment that prevents the person from enjoying a printed copyright work to the same degree as a person who does not have that impairment; but
- (b) excludes an impairment of visual function that can be improved, by the use of corrective lenses, to a level that is normally acceptable for reading without a special level or kind of light

5 Section 69 replaced (Provision of Braille copies of literary or dramatic works)

Replace section 69 with:

69 Authorised entity types

- (1) An entity that is 1 or more of the following may undertake the activities set out in section 69A:
 - (a) an educational establishment;
 - (b) an educational resource supplier;
 - (c) a prescribed library within the meaning given in section 50(1);
 - (d) a charitable entity that has a purpose consistent with making accessible format copies available to persons who have a print disability.
- (2) Before beginning activities under section 69A for the first time, an authorised entity must give notice to the Ministry that it intends to do so.

69A Accessible format copy activities by authorised entity

- (1) An authorised entity does not infringe copyright in the relevant work if the entity acts in accordance with this section.
- (2) An authorised entity may make an accessible format copy if the entity—
 - (a) has taken all reasonable steps to notify the owner of the copyright in the work of its intention to make an accessible format copy; and
 - (b) is making the copy to provide it only to persons who have a print disability, persons acting on their behalf, or other authorised entities; and
 - (c) ensures that the copy respects the integrity of the original work, as far as is reasonably possible and taking into account changes needed to make the work accessible in the alternative format.

- (3) An authorised entity (A) may import into New Zealand an accessible format copy from an authorised entity (B) in another Marrakesh Treaty country if A—
- (a) has taken all reasonable steps to notify the owner of the copyright in the work of its intention to make an accessible format copy; and
 - (b) is importing the copy to provide it only to persons who have a print disability, persons acting on their behalf, or other authorised entities; and
 - (c) has taken all reasonable steps to ensure that the copy respects the integrity of the original work, as far as is reasonably possible and taking into account changes needed to make the work accessible in the alternative format.
- (4) An authorised entity may do 1 or more of the following:
- (a) export from New Zealand an accessible format copy to an authorised entity, or a person who has a print disability, in another Marrakesh Treaty country:
 - (b) reproduce copies—
 - (i) made or imported into New Zealand under this section; or
 - (ii) provided to the entity under section 69B(2)(c):
 - (c) provide, by communication or otherwise, accessible format copies made or imported under this section or provided to the entity under section 69B(2)(c) to—
 - (i) persons in New Zealand who have a print disability or persons acting on their behalf; and
 - (ii) other authorised entities in New Zealand.

69B Accessible format copy activities by person who is not authorised entity

- (1) A person who is not an authorised entity does not infringe copyright in the relevant work if he or she—
- (a) has a print disability or is acting on behalf of someone who has a print disability; and
 - (b) intends the accessible format copy to be only for the use of the person who has a print disability; and
 - (c) acts in accordance with subsection (2).
- (2) The person may do 1 or more of the following:
- (a) make an accessible format copy that respects the integrity of the original work, as far as is reasonably possible and taking into account changes needed to make the work accessible in the alternative format:
 - (b) import into New Zealand an accessible format copy from an authorised entity in another Marrakesh Treaty country:

- (c) provide the accessible format copy that he or she made or imported under paragraph (a) or (b) to an authorised entity.

69C Duties of authorised entity in regard to records and fees

- (1) An authorised entity must—
 - (a) make and keep a record of a work of which it has—
 - (i) made, provided, reproduced, imported, or exported an accessible format copy under section 69A; or
 - (ii) received an accessible format copy under section 69B(2)(c); and
 - (b) permit the copyright owner to inspect the record—
 - (i) during normal office hours; or
 - (ii) at any reasonable time, if the entity does not have office hours.
- (2) An authorised entity may charge a fee for providing an accessible format copy to a person, but the fee must not be higher than the sum of the cost to the entity of making, providing, reproducing, importing, or exporting the copy (as applicable) and a reasonable contribution to the general expenses of the entity.

69D Ministry must publish list of authorised entities on Internet site

The Ministry must publish on its Internet site a list of authorised entities that have given notice under section 69(2).

6 Section 93 amended (Subsequent dealings with copies made under this Part)

Replace section 93(2)(n) with:

- (n) sections 69A and 69B (which relate to accessible format copies):

7 Section 234 amended (Regulations)

Replace section 234(d) with:

- (d) prescribing bodies for the purposes of section 72, 89, 90, 185, 190, or 191:

8 New Part 3 of Schedule 1 inserted

In Schedule 1, after Part 2, insert the Part 3 set out in the Schedule of this Act.

Part 2**Consequential amendment to Copyright (General Matters)
Regulations 1995****9 Consequential amendment to Copyright (General Matters) Regulations 1995**

This Part amends the Copyright (General Matters) Regulations 1995.

- 10 Regulation 5 revoked (Prescribed bodies for purposes of section 69 of Act)**
Revoke regulation 5.

Schedule
New Part 3 of Schedule 1 inserted

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Part 3
**Provisions relating to Copyright (Marrakesh Treaty
Implementation) Amendment Act 2019**

51 Interpretation

In this Part,—

commencement date means the date on which this Part comes into force

former section 69 means section 69 as in force immediately before the commencement date

prescribed body means a body declared in regulation 5 to be a prescribed body for the purposes of former section 69

regulation 5 means regulation 5 of the Copyright (General Matters) Regulations 1995 as in force immediately before the commencement date.

52 Braille or otherwise modified copies made under former section 69 treated as if made under Act as amended

A copy or an adaptation made or communicated by a prescribed body before the commencement date in compliance with the conditions of the former section 69 is to be treated on and after the commencement date as an accessible format copy that was made or provided in compliance with sections 69A and 69B.

Legislative history

1 November 2018	Introduction (Bill 109–1)
8 November 2018	First reading and referral to Economic Development, Science and Innovation Committee
8 May 2019	Reported from Economic Development, Science and Innovation Committee (Bill 109–2)
30 July 2019	Second reading
6 August 2019	Committee of the whole House
7 August 2019	Third reading
12 August 2019	Royal assent

This Act is administered by the Ministry of Business, Innovation, and Employment.