

# Copyright Amendment Regulations 2001 (No. 1) 2001 No. 7

## EXPLANATORY STATEMENT

### Statutory Rules 2001 No. 7

Issued by the authority of the Attorney-General

*Copyright Act 1968*

Copyright Amendment Regulations 2001 (No. 1)

The *Copyright Act 1968* (the Act) grants and determines the scope of copyright in Australia.

Section 249 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that are required or permitted by the Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Copyright Regulations 1969* (the Principal Regulations) prescribe matters relating to, amongst other things, notices required to be given by the Copyright Act.

The *Copyright Amendment Regulations 2001 (No. 1)* have amended the Principal Regulations by inserting a new regulation 25AA prescribing the contents of a notice under each of subsections 195AT(2A), (3A) and (4B). Section 195AT, which deals with certain treatment of works that does not constitute an infringement of an author's moral rights, is in new Part IX of the Copyright Act that was inserted by the *Copyright Amendment (Moral Rights) Act 2000*.

The new regulations have also amended regulation 27 of the Principal Regulations to provide for the manner of giving a notice referred to in the last paragraph.

Details of the new regulations are included in the Attachment.

The new regulations commence on gazettal.

## ATTACHMENT

**Regulation 1** provides that the new regulations are the Copyright *Amendment Regulations 2001* (No. 1)

**Regulation 2** provide that the new regulations commence on gazettal.

**Regulation 3** is a machinery provision that provides that Schedule 1 to the new regulations amends the Principal Regulations.

**Schedule 1, item 1** inserts new regulation 25AA in the Principal Regulations. Regulation 25AA(1) prescribes the matters to be included in a notice under section 195AT(2A)(c) of the Act, in addition to the matters referred to in section 195AT(2A)(a) and (b). If such notice is given by the owner of a building to the author of an artistic work affixed to or forming part of the building, and certain other steps are taken by the owner in the event that the author replies to the notice, a change in, or the relocation, demolition or destruction of the building does not infringe the author's moral right of integrity in the work. The matters prescribed by regulation 25AA(1) include: the date of the notice; the name and address of the building; the description and location of the work; the building owner's contact details; the contact details of the person who can provide the author with access to the work; when such access may be had; and details of the change or relocation if that is what the owner is giving notice of.

Regulation 25AA(2) prescribes matters to be included in a notice under section 195AT(3A)(c) of the Act, in addition to the matters referred to in section 195AT(3A)(a) and (b). If such notice is given by the owner of a building to the author of the building or of plans used in the construction of the building, and certain other steps are taken by the owner in the event that the author replies to the notice, a change in, or the relocation, demolition or destruction of the building does not infringe the author's moral right of integrity in the building or the plans. The matters prescribed include: the date of the notice; the name and address of the building; the building owner's contact details; the contact details of the person who can provide the author with access to the building; when such access may be had; and details of the change or relocation if that is what the owner is giving notice of.

Regulation 25AA(3) prescribes matters to be included in a notice under section 195AT(4B)(c) of the Act, in addition to the matters referred to in section 195AT(4B)(a) and (b). The notice concerns the removal of a moveable artistic work from a place for which it was made and which is publicly accessible. If the remover gives such notice to the author of the work, and certain other steps are taken by the remover in the event that the author replies to the notice, the removal does not infringe the author's moral right of integrity in the work. The matters prescribed include: the date of the notice; a description of the work and details of its location; the remover's contact details; the contact details of the person who can provide the author with access to the work; when such access may be had; details of the new location, if permanent, of the work; and the contact details of the new owner, if any, of the work.

Regulation 25AA(4) provides that "author" as used in new regulation 25AA includes a person representing the author, which expression is defined in section 189 of the Act.

**Schedule 1, item 2** inserts new regulation 27(3) in the Principal Regulations. Regulation 27 provides for the manner of service of documents under the Principal Regulations.

Paragraphs 195AT(2A)(a), (3A)(a) and (4B)(a) of the Act provide for the giving of the notices referred to in the above description of Schedule 1, item 1. New regulation 27(3) provides that the manner of giving of such notices is registered post or courier service with confirmation of delivery.