

2010-2011

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Therapeutic Goods Legislation
Amendment (Copyright) Bill 2011**

No. , 2011

(Health and Ageing)

**A Bill for an Act to amend the *Copyright Act 1968*,
and for related purposes**

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1 **A Bill for an Act to amend the *Copyright Act 1968*,**
2 **and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Therapeutic Goods Legislation*
6 *Amendment (Copyright) Act 2011*.

7 **2 Commencement**

8 This Act commences on the day after this Act receives the Royal
9 Assent.

10 **3 Schedule(s)**

11 Each Act that is specified in a Schedule to this Act is amended or
12 repealed as set out in the applicable items in the Schedule

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concerned, and any other item in a Schedule to this Act has effect according to its terms.

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2 **Schedule 1—Amendments**
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4 ***Copyright Act 1968***

5 **1 After section 44B**

6 Insert:

7 **44BA Acts done in relation to certain medicine**

- 8 (1) The following acts are not an infringement of any copyright
9 subsisting under this Part in a work that is product information
10 approved under section 25AA of the *Therapeutic Goods Act 1989*
11 in relation to medicine:
- 12 (a) an act that is done under that Act and that is in respect of
13 product information in relation to:
- 14 (i) restricted medicine; or
15 (ii) medicine in respect of which the applicant for the
16 registration of that medicine under that Act has been
17 given a notice of the kind referred to in subparagraph
18 25(1)(da)(ii) of that Act; or
19 (iii) medicine in respect of which subsection 25AA(2) or (3)
20 of that Act applies;
- 21 (b) an act that is ancillary or incidental to an act referred to in
22 paragraph (a).
- 23 (2) The following acts are not an infringement of any copyright
24 subsisting under this Part in a work that is product information
25 approved under section 25AA of the *Therapeutic Goods Act 1989*
26 in relation to medicine:
- 27 (a) supplying, in Australia, some or all of any product
28 information that is approved under that section in relation to
29 medicine;
- 30 (b) reproducing, in Australia, some or all of the information
31 referred to in paragraph (a);
- 32 (c) publishing, in Australia, some or all of the information
33 referred to in paragraph (a);
- 34 (d) communicating, in Australia, some or all of the information
35 referred to in paragraph (a);

- 1 (e) adapting, in Australia, some or all of the information referred
2 to in paragraph (a);
3 to the extent that the supply, reproduction, publication,
4 communication or adaptation is for a purpose related to the safe
5 and effective use of the medicine referred to in paragraph (a).
- 6 (3) An act done in Australia that is ancillary or incidental to a supply,
7 reproduction, publication, communication or adaptation referred to
8 in subsection (2) is not an infringement of any copyright subsisting
9 under this Part in the work referred to in subsection (2).
- 10 (4) For the purposes of this section, *medicine*, *product information*
11 and *restricted medicine* have the same meanings as in the
12 *Therapeutic Goods Act 1989*.

13 2 Application

14 Subsections 44BA(1), (2) and (3) of the *Copyright Act 1968*, as inserted
15 by this Act, apply in relation to acts done on or after the day on which
16 this item commences (regardless of whether the product information
17 referred to in subsection 44BA(1) or (2) of that Act was approved
18 before, on or after that day).

19 3 Compensation for acquisition of property

- 20 (1) If the operation of this Schedule would result in an acquisition of
21 property from a person otherwise than on just terms, the
22 Commonwealth is liable to pay a reasonable amount of compensation to
23 the person.
- 24 (2) If the Commonwealth and the person do not agree on the amount of the
25 compensation, the person may institute proceedings in a court of
26 competent jurisdiction for the recovery from the Commonwealth of
27 such reasonable amount of compensation as the court determines.
- 28 (3) In this item:
29 *acquisition of property* has the same meaning as in paragraph 51(xxxi)
30 of the Constitution.
31 *just terms* has the same meaning as in paragraph 51(xxxi) of the
32 Constitution.