Copyright Amendment Bill 2006

(Government)

(1) Schedule 1, item 6, page 18 (line 17), omit “offences”, substitute “offence”.  

[strict liability offences]

(2) Schedule 1, item 6, page 18 (line 28) to page 19 (line 3), omit subsection 132AI(8).  

[strict liability offences]

(3) Schedule 1, item 6, page 19 (line 4), omit “Subsections (7) and (8) are offences”, substitute “Subsection (7) is an offence”.

[strict liability offences]

(4) Schedule 1, item 6, page 27 (line 1), omit subparagraph 132AO(5)(a)(i).  

[strict liability offences]

(5) Schedule 1, item 8, page 36 (lines 20 to 23), omit subsection 133B(1), substitute:

(1) The regulations may make provision enabling a person who is alleged to have committed an offence of strict liability against this Division to do both of the following as an alternative to prosecution:

(a) pay a penalty to the Commonwealth;

(b) forfeit to the Commonwealth:

(i) each article (if any) that is alleged to be an infringing copy of a work or other subject-matter and that is alleged to have been involved in the commission of the offence; and

(ii) each device (if any) that is alleged to have been made to be used for making an infringing copy of a work or other subject-matter and that is alleged to have been involved in the commission of the offence.

Note: Regulations made for this purpose will make provision to the effect that a prosecution of an alleged offender will be avoided if the alleged offender both pays a penalty to the Commonwealth and forfeits to the Commonwealth all relevant articles and devices (if any).
(6) Schedule 1, item 33, page 50 (line 22) to page 51 (line 1), omit subsections 248PC(5) and (6).

(7) Schedule 1, item 33, page 51 (line 3), omit “, (3) and (5)”, substitute “and (3)”).

(8) Schedule 1, item 33, page 52 (lines 3 to 12), omit subsections 248PD(5) and (6).

(9) Schedule 1, item 33, page 61 (line 8), omit “offences”, substitute “offence”.

(10) Schedule 1, item 33, page 61 (lines 16 to 23), omit subsection 248PJ(8).

(11) Schedule 1, item 33, page 61 (line 24), omit “Subsections (7) and (8) are offences”, substitute “Subsection (7) is an offence”.

(12) Schedule 1, item 33, page 63 (lines 13 to 15), omit “either for trade or to an extent that will affect prejudicially the financial interests of the performer in the performance”, substitute “for trade”.

(13) Schedule 1, item 33, page 71 (line 27), omit “offences”, substitute “offence”.

(14) Schedule 1, item 33, page 72 (lines 2 to 10), omit subsection 248QE(8).

(15) Schedule 1, item 33, page 72 (line 11), omit “Subsections (7) and (8) are offences”, substitute “Subsection (7) is an offence”.

(16) Schedule 1, item 33, page 73 (lines 29 to 31), omit “either for trade or to an extent that will affect prejudicially the financial interests of the performer in the performance”, substitute “for trade”.

(17) Schedule 6, item 1, page 94 (lines 10 to 15), omit subsection 111(1), substitute:

1. This section applies if a person makes a cinematograph film or sound recording of a broadcast solely for private and domestic use by watching or listening to the material broadcast at a time more convenient than the time when the broadcast is made.

Note: Subsection 10(1) defines broadcast as a communication to the public delivered by a broadcasting service within the meaning of the Broadcasting Services Act 1992.

(18) Schedule 6, Part 2, page 103 (after line 6), at the end of the Part, add:

9AA Review of new sections 47J and 110AA
The Minister must cause to be carried out by the end of 31 March 2008 a review of the operation of sections 47J and 110AA of the Copyright Act 1968.

Note: Those sections are inserted in that Act by this Part.

The Minister must cause a copy of the report of the review to be laid before each House of the Parliament within 15 sitting days of that House after the report is completed.

Note: Those sections are inserted in that Act by this Part.

(19) Schedule 8, item 1, page 117 (lines 7 to 33), omit the item, substitute:

1 Subsection 28(2)
Omit “the last preceding subsection”, substitute “this section”.

1A Subsection 28(3)
Omit “subsection (1)”, substitute “this section”.

1B At the end of section 28
Add:

(5) A communication of a literary, dramatic or musical work, a sound recording or a cinematograph film is taken for the purposes of this Act not to be a communication to the public if the communication is made merely to facilitate:
(a) a performance of the work that, because of this section, is not a performance in public; or
(b) an act of causing sounds forming part of the recording to be heard that, because of this section, is not an act of causing the sound recording to be heard in public; or
(c) an act of causing visual images or sounds forming part of the cinematograph film to be seen or heard that, because of this section, is not an act of causing the film to be seen or heard in public.

(6) A communication of a television broadcast or sound broadcast is taken for the purposes of this Act not to be a communication of the broadcast, or of a work or other subject-matter included in the broadcast, to the public if:
(a) the communication is made merely to facilitate the television broadcast being seen and heard, or the sound broadcast being heard, in class or otherwise in the presence of an audience, in the course of educational instruction that:
   (i) is given by a teacher; and
   (ii) is not given for profit; and
(b) the audience is limited to persons who are taking part in the instruction or are otherwise directly connected with the place where the instruction is given.

(7) A communication of an artistic work is taken for the purposes of this Act not to be a communication of the work to the public if:
(a) the communication is made merely to facilitate the work being seen in class or otherwise in the presence of an audience, in the course of educational instruction that:
   (i) is given by a teacher; and
   (ii) is not given for profit; and
(b) the audience is limited to persons who are taking part in the instruction or are otherwise directly connected with the place where the instruction is given.

Note: The heading to section 28 is altered by inserting “and communication” after “Performance”.

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