



Therapeutic Goods Legislation Amendment (Copyright) Act 2011

No. 39, 2011

**An Act to amend the *Copyright Act 1968*, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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An Act to amend the *Copyright Act 1968*, and for related purposes

[Assented to 27 May 2011]

The Parliament of Australia enacts:

1 Short title

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

2 Commencement

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

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Copyright Act 1968

1 After section 44B

Insert:

44BA Acts done in relation to certain medicine

- (1) The following acts are not an infringement of any copyright subsisting under this Part in a work that is product information approved under section 25AA of the *Therapeutic Goods Act 1989* in relation to medicine:
 - (a) an act that is done under that Act and that is in respect of product information in relation to:
 - (i) restricted medicine; or
 - (ii) medicine in respect of which the applicant for the registration of that medicine under that Act has been given a notice of the kind referred to in subparagraph 25(1)(da)(ii) of that Act; or
 - (iii) medicine in respect of which subsection 25AA(2) or (3) of that Act applies;
 - (b) an act that is ancillary or incidental to an act referred to in paragraph (a).
- (2) The following acts are not an infringement of any copyright subsisting under this Part in a work that is product information approved under section 25AA of the *Therapeutic Goods Act 1989* in relation to medicine:
 - (a) supplying, in Australia, some or all of any product information that is approved under that section in relation to medicine;
 - (b) reproducing, in Australia, some or all of the information referred to in paragraph (a);
 - (c) publishing, in Australia, some or all of the information referred to in paragraph (a);
 - (d) communicating, in Australia, some or all of the information referred to in paragraph (a);

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

2 Application

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

3 Compensation for acquisition of property

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

*[Minister's second reading speech made in—
House of Representatives on 24 February 2011
Senate on 25 March 2011]*

(19/11)

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