

DRAFT Copyright (Excluded Works) Order 2007

In exercise of the powers conferred by section 261D (2) of the Copyright Act, the Minister for Law hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Copyright (Excluded Works) Order 2007 and shall come into operation on _____ 2007.

Application

2. This Order shall remain in force until _____ 2011.

Definitions

3. —(1) In this Order, unless the context otherwise requires —

"Internet location" includes any domain, uniform resource locator (URL) or numeric Internet protocol (IP) address or any combination thereof;

"list of blocked Internet locations" means a list of Internet locations to which access is blocked by means of a commercially available filtering computer program which operates to prevent access to any domain or website or any part thereof, but does not include any list of blocked Internet locations which is merely protected by —

(a) a computer program which operates exclusively to prevent damage to a computer or computer network; or

(b) a computer program which operates exclusively to prevent receipt of electronic mail;

"specialised format" means a format that —

(a) is in Braille, audio or digital text; and

(b) is intended solely for use by handicapped readers.

(2) For the purposes of paragraph 4(1)(b), a dongle shall be treated as obsolete if —

(a) it is no longer being manufactured;

(b) it is no longer commercially available; or

(c) repair is no longer commercially available.

(3) For the purposes of paragraph 4(1)(c), a computer program or video game shall be treated as being in an obsolete format if its contents can only be rendered perceptible by means of a machine or system that —

(a) is no longer being manufactured; or

(b) is no longer commercially available.

Works to which section 261C (1) (a) of Act shall not apply

4. —(1) Section 261C (1) (a) of the Act shall not apply to the following works:

(a) any compilation which consists of a list of blocked Internet locations;

(b) any computer program to which access is controlled by means of an obsolete dongle that is damaged or defective;

(c) any computer program or video game —

(i) which is distributed in an obsolete format; and

(ii) to which access may be gained only by means of the original medium or hardware in or with which it was designed to be used or operated; and

(d) any literary work —

(i) which is in an electronic book format; and

(ii) in respect of which a technological access control measure has been applied to all existing electronic book editions of the work (including any digital text edition made available by an institution assisting handicapped readers) so as to —

(A) prevent the operation of the read-aloud function of the electronic book; or

(B) prevent screen readers from converting the text into a specialised format.

(e) Audiovisual works included in the library of an educational institution that conducts courses in film or media, when

circumvention is accomplished for the purpose of making compilations of portions of those works for educational use in the classroom by media studies or film educators; and

- (f) Sound recordings, and audiovisual works associated with those sound recordings, distributed in compact disc format and protected by technological protection measures that control access to lawfully purchased works and create or exploit security flaws or vulnerabilities that compromise the security of personal computers, when circumvention is accomplished solely for the purpose of good faith testing, investigating, or correcting such security flaws or vulnerabilities; and
- (g) any computer program that requires a key code for activation –
 - (i) the key code is lost and cannot be found after a reasonable search;
 - (ii) the replacement key code is no longer commercially available; and
 - (iii) the user is not in breach of the licence terms relating to the key code found in the licence agreement made between the user and the original computer program producer.