

GUERNSEY STATUTORY INSTRUMENT

2021 No. **25**

**The Copyright (Prescribed Libraries, Archives,
Museums and Galleries and Copying of Copyright
Material) (Bailiwick of Guernsey) Regulations, 2021**

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**The Copyright (Prescribed Libraries, Archives,
Museums and Galleries and Copying of Copyright
Material) (Bailiwick of Guernsey) Regulations, 2021**

<i>Made</i>	<i>23rd March, 2021</i>
<i>Coming into operation</i>	<i>26th March, 2021</i>
<i>Laid before the States</i>	<i>, 2021</i>

THE COMMITTEE *for* ECONOMIC DEVELOPMENT, in exercise of the powers conferred on it by sections 50(1), (2), (3) and (6) and 51 to 57 of the Copyright (Bailiwick of Guernsey) Ordinance, 2005^a (“**the Ordinance**”), and all other powers enabling them in that behalf, hereby orders:-

Prescribed libraries or archives.

1. (1) The libraries and archives and descriptions of libraries and archives in Schedule 1 are prescribed for the purposes of sections 51 and 52 of the Ordinance, provided that they are not conducted for profit.

^a Ordinance No. XIX of 2005; as amended by Ordinances No. XXXIII of 2013; No. IX of 2016; G.S.I. No. 97 of 2020; Copyright (Bailiwick of Guernsey) (Amendment) Ordinance, 2021.

(2) All libraries and archives in the Bailiwick are prescribed for the purposes of sections 54 to 57 but only libraries and archives that are not conducted for profit may be supplied with copies of material by a librarian, curator or archivist.

(3) The libraries and archives in Schedule 2 are prescribed for the purposes of sections 55 and 56 of the Ordinance and may be supplied with copies of material by a librarian, curator or archivist.

Prescribed museums or galleries.

2. (1) The museums and galleries and descriptions of museums and galleries in Schedule 3 are prescribed for the purposes of section 56 of the Ordinance, provided that they are not conducted for profit.

(2) The museums and galleries in Schedule 4 are prescribed for the purposes of section 56 of the Ordinance and may be supplied with copies of material by a librarian, curator or archivist.

Copying by librarian of article or part of published work.

3. (1) For the purposes of sections 51 and 52 of the Ordinance the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which must be complied with when a librarian makes and supplies a copy of any article in a periodical or, as the case may be, of a part of a literary, dramatic or musical work from a published edition to a person requiring the copy ("**Person A**").

(2) The prescribed conditions are –

(a) that no copy of any article or any part of a work shall be supplied to Person A unless –

(i) Person A satisfies the librarian that they require the copy for purposes of research for a

non-commercial purpose or private study and will not use it for any other purpose, and

- (ii) Person A has delivered to the librarian a declaration in writing, in relation to that article or part of a work, substantially in accordance with Form A in Schedule 5 to these Regulations and signed in the manner therein indicated,

(b) that the librarian is satisfied that the requirement of Person A and that of any other person –

- (i) are not similar, that is to say, the requirements are not for copies of substantially the same article or part of a work at substantially the same time and for substantially the same purpose, and

- (ii) are not related, that is to say, Person A and that person do not receive instruction to which the article or part of the work is relevant at the same time and place,

(c) that Person A is not furnished –

- (i) in the case of an article, with more than one copy of the article or more than one article contained in the same issue of a periodical, or

- (ii) in the case of a part of a published work, with more than one copy of the same material or with

a copy of more than a reasonable proportion of any work, and

- (d) that Person A is required to pay for the copy a sum equivalent to but not less than the cost (including a contribution to the general expenses of the library) attributable to its production.

(3) Unless the librarian is aware that the signed declaration delivered by Person A pursuant to paragraph (2)(a)(ii) above is false in a material particular, the librarian may rely on it as to the matter the librarian is required to be satisfied on under paragraph (2)(a)(i) above before making or supplying the copy.

Copying by librarian to supply other libraries.

4. (1) For the purposes of section 55 of the Ordinance the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which must be complied with when a librarian makes and supplies to another prescribed library a copy of any article in a periodical or, as the case may be, of the whole or part of a published edition of a literary, dramatic or musical work required by that other prescribed library.

(2) The prescribed conditions are –

- (a) that the other prescribed library is not furnished with more than one copy of the article or of the whole or part of the published edition, or
- (b) that, where the requirement is for a copy of more than one article in the same issue of a periodical, or for a copy of the whole or part of a published edition, the other

prescribed library furnishes a written statement to the effect that it is a prescribed library and that it does not know, and could not by reasonable inquiry ascertain, the name and address of a person entitled to authorise the making of the copy, and

- (c) that the other prescribed library shall be required to pay for the copy a sum equivalent to but not exceeding the cost (including a contribution to the general expenses of the library) attributable to its production.

Copying by librarian, archivist or curator for the purposes of replacing items in a permanent collection.

5. (1) For the purposes of section 56 of the Ordinance the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which must be complied with before the librarian, archivist or curator makes a copy from any item in the permanent collection of the library, archive, museum or gallery in order to preserve or replace that item in the permanent collection of that library, archive, museum or gallery or in the permanent collection of another prescribed library, archive, museum or gallery.

(2) The prescribed conditions are –

- (a) that the item in question is an item in the part of the permanent collection maintained by the library, archive, museum or gallery wholly or mainly for the purposes of reference on the premises of the library, archive, museum or gallery, or is an item in the permanent collection of the library, archive, museum or gallery

which is available on loan only to other libraries, archives, museums or galleries,

- (b) if the copy is for the purpose of preserving the permanent collection of the library, archive, museum or gallery, that it is not reasonably practicable for the librarian, archivist or curator to purchase a copy of that item to fulfil the purpose under section 56(1)(a) or (b) of the Ordinance,
- (c) if the copy is for the purpose of preserving the permanent collection of another library, archive, museum or gallery –
 - (i) that the other prescribed library, archive, museum or gallery furnishes a written statement to the effect that the item has been lost, destroyed or damaged and that it is not reasonably practicable for it to purchase a copy of that item, and that if a copy is supplied it will only be used to fulfil the purpose under section 56(1)(b) of the Ordinance, and
 - (ii) that the other prescribed library, archive, museum or gallery shall be required to pay for the copy a sum equivalent to but not exceeding the cost (including a contribution to the general expenses of the library, archive, museum or gallery) attributable to its production.

Copying by librarian or archivist of certain unpublished works.

6. (1) For the purposes of section 57 of the Ordinance the conditions specified in paragraph (2) of this regulation are prescribed as the conditions which must be complied with in the circumstances in which that section applies when the librarian or, as the case may be, the archivist makes and supplies a copy of the whole or part of a literary, dramatic or musical work from an unpublished document in the library or archive to a person requiring the copy ("**Person B**").

(2) The prescribed conditions are –

(a) that no copy of the whole or part of the work shall be supplied to Person B unless –

(i) Person B satisfies the librarian or archivist that they require the copy for purposes of research for a non-commercial purpose or private study and will not use it for any other purpose, and

(ii) Person B has delivered to the librarian or, as the case may be, the archivist a declaration in writing, in relation to that work, substantially in accordance with Form B in Schedule 5 to these Regulations and signed in the manner therein indicated,

(b) that Person B is not furnished with more than one copy of the same material, and

(c) that Person B is required to pay for the copy a sum not less than the cost (including a contribution to the general

expenses of the library or archive) attributable to its production.

(3) Unless the librarian or archivist is aware that the signed declaration delivered by Person B pursuant to paragraph (2)(a)(ii) above is false in a material particular, the librarian or archivist may rely on it as to the matter the librarian or archivist is required to be satisfied on under paragraph (2)(a)(i) above before making or supplying the copy.

Revocation and savings.

7. (1) The Copyright (Prescribed Libraries and Archives and Copying of Copyright Material) (Bailiwick of Guernsey) Regulations, 2011^b (“**the Prescribed Libraries Regulations**”) are revoked.

(2) Anything done under or for the purposes of the Prescribed Libraries Regulations before the commencement of these Regulations shall, to the extent that the same is required or authorised to be done under or for the purposes of these Regulations, have effect as if done under or for the purposes of the equivalent provision of these Regulations; and for the avoidance of doubt, the revocation of the Prescribed Libraries Regulations does not affect any restriction, requirement, condition, prohibition, or penalty, imposed thereunder.

(3) Anything in the process of being done under or for the purposes of the Prescribed Libraries Regulations before the commencement of these Regulations may, to the extent that the same is required or authorised to be done

^b G.S.I. No. 14 of 2011.

under or for the purposes of these Regulations, be continued to be done under or for the purposes of the equivalent provision of these Regulations.

(4) Any reference howsoever expressed in any enactment or subordinate legislation to a regulation in the Prescribed Libraries Regulations which is re-enacted (with or without modification) by or under these Regulations shall (unless the contrary intention appears) be construed as a reference to the provision as re-enacted.

(5) In so far as any subordinate legislation made or other thing done (or having effect as if made or done) under or for the purposes of a regulation in the Prescribed Libraries Regulations could be made or done under or for the purposes of these Regulations, it shall (unless the contrary intention appears) have effect as if made or done under or for the purposes of these Regulations.

Interpretation.

8. (1) In these Regulations –

"archivist" means an archivist of a prescribed archive and includes a person acting on his behalf,

"conducted for profit" in relation to a library, archive, museum or gallery means a library, archive, museum or gallery which is established or conducted for profit or which forms part of or is administered by a body established or conducted for profit,

"curator" means a curator of a prescribed museum or prescribed gallery and includes a person acting on his behalf,

"librarian" means a librarian of a prescribed library and includes a person acting on his behalf,

"the Ordinance" means the Copyright (Bailiwick of Guernsey) Ordinance, 2005,

"prescribed archive" means an archive of the descriptions specified in paragraphs (1), (2) and (3) of regulation 1,

"prescribed gallery" means a gallery of the descriptions specified in paragraphs (1) and (2) of regulation 2,

"prescribed library" means a library of the descriptions specified in paragraphs (1), (2) and (3) of regulation 1,

"prescribed museum" means a museum of the descriptions specified in paragraphs (1) and (2) of regulation 2,

The **"Prescribed Libraries Regulations"** means the Copyright (Prescribed Libraries and Archives and Copying of Copyright Material) (Bailiwick of Guernsey) Regulations, 2011,

and other expressions, except where the context excludes, have the same meanings as in the Ordinance.

(2) The Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016^c applies to the interpretation of these Regulations as it applies to the interpretation of an enactment.

Citation.

9. These Regulations may be cited as the Copyright (Prescribed Libraries, Archives, Museums and Galleries and Copying of Copyright Material) (Bailiwick of Guernsey) Regulations, 2021.


Extent.

10. These Regulations shall have effect throughout the Bailiwick.

Commencement

11. These Regulations shall come into force on 26 March 2021.

Dated this twenty third day of March, 2021



Deputy N Inder

President of the Committee *for* Economic Development

For and on behalf of the Committee

^c Order in Council No. V of 2018; as amended by Ordinances No. XXII of 2018; and Ordinance No. XXVI of 2018.

SCHEDULE 1

Regulation 1(1)

LIBRARIES AND ARCHIVES NOT CONDUCTED FOR PROFIT

1. The Guille-Alles library,
2. The Priaulx library,
3. The Royal Court library,
4. The States Archive Service,
5. All libraries administered by the Committee *for* Education, Sport & Culture, including, for the avoidance of doubt any library of a school,
6. Any library administered by, or as part of, a committee or department of the States of Guernsey,
7. All libraries and archives administered by, or as part of, the States of Alderney,
8. All libraries and archives administered by, or as part of, the Chief Pleas of Sark,
9. Any other library conducted for the purpose of facilitating or encouraging the study of bibliography, education, fine arts, history, languages, law, literature, mathematics, medicine, music, philosophy, religion, science (including natural and social science) or technology, or administered by any establishment or organisation which is conducted wholly or mainly for such a purpose.

SCHEDULE 2

Regulation 1(3)

Any library or archive outside the Bailiwick which is conducted wholly or mainly for the purpose of facilitating or encouraging the study of bibliography, education, fine arts, history, languages, law, literature, mathematics, medicine, music, philosophy, religion, science (including natural and social science) or technology.

SCHEDULE 3

Regulation 2(1)

MUSEUMS AND GALLERIES NOT CONDUCTED FOR PROFIT

1. Any museums and galleries administered by, or as part of, a committee or department of the States of Guernsey,
2. All museums and galleries administered by, or as part of, the States of Alderney,
3. All museums and galleries administered by, or as part of, the Chief Pleas of Sark,
4. Any other museum or gallery conducted for the purpose of facilitating or encouraging the study of bibliography, education, fine arts, history, languages, law, literature, mathematics, medicine, music, philosophy, religion, science (including natural and social science) or technology, or administered by any establishment or organisation which is conducted wholly or mainly for such a purpose.

SCHEDULE 4

Regulation 2(2)

Any museum or gallery outside the Bailiwick which is conducted wholly or mainly for the purpose of facilitating or encouraging the study of bibliography, education, fine arts, history, languages, law, literature, mathematics, medicine, music, philosophy, religion, science (including natural and social science) or technology.

SCHEDULE 5

Regulations 3 and 6

FORM A

DECLARATION: COPY OF ARTICLE OR PART OF PUBLISHED WORK

To:

The Librarian of Library

[Address of Library]

Please supply me with a copy of *the article in the periodical, the particulars of which are []*the part of the published work, the particulars of which are [] required by me for the purposes of research or private study.

I declare that –

- (a) I have not previously been supplied with a copy of the same material by you or any other librarian;
- (b) I will not use the copy except for research for a non-commercial purpose or private study and will not supply a copy of it to any other person;
and
- (c) to the best of my knowledge no other person with whom I work or study has made or intends to make, at or about the same time as this request, a request for substantially the same material for substantially the same purpose.

I understand that if the declaration is false in a material particular the copy supplied to me by you will be an infringing copy and that I shall be liable for infringement of copyright as if I had made the copy myself.

Signature **

Date

Name

Address

* Delete whichever is inappropriate.

** This must be the personal signature of the person making the request. A stamped or typewritten signature, or the signature of an agent, is NOT acceptable.

FORM B

DECLARATION: COPY OF WHOLE OR PART OF UNPUBLISHED WORK

To:

The *Librarian/Archivist of *Library/Archive

[Address of Library/Archive]

Please supply me with a copy of the *whole/following part [particulars of part] of the [particulars of the unpublished work] required by me for the purposes of research or private study.

I declare that –

- (a) I have not previously been supplied with a copy of the same material by you or any other librarian or archivist;
- (b) I will not use the copy except for research for a non-commercial purpose or private study and will not supply a copy of it to any other person; and
- (c) to the best of my knowledge the work had not been published before the document was deposited in your *library/archive and the copyright owner has not prohibited copying of the work.

I understand that if the declaration is false in a material particular the copy supplied to me by you will be an infringing copy and that I shall be liable for infringement of copyright as if I had made the copy myself.

Signature **

Date

Name

Address

* Delete whichever is inappropriate.

** This must be the personal signature of the person making the request. A stamped or typewritten signature, or the signature of an agent, is NOT acceptable.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe libraries and archives for the purpose of sections 50-57 of the Copyright (Bailiwick of Guernsey) Ordinance, 2005 (“the Ordinance”), and museums and galleries for the purpose of section 56 of the Ordinance. The Regulations follow on from amendments being made to the Ordinance by the Copyright (Bailiwick of Guernsey) (Amendment) Ordinance, 2021.

Sections 50-57 of the Ordinance set out arrangements relating to copying which only apply to the libraries, archives, museums and galleries that have been prescribed. Section 56 allows for the making of replacement works for not for profit libraries, museums, galleries and archives.

These Regulations also prescribe certain conditions with which the prescribed libraries, archives, museums and galleries must comply in order to avoid infringing the provisions of the Ordinance.

These regulations repeal and restate the provisions that previously applied in respect of libraries and archives in the Copyright (Prescribed Libraries and Archives and Copying of Copyright Material) Regulations, 2011.

These Regulations will come into force on 26 March 2021.

