

EXPLANATORY MEMORANDUM

Legal Deposit Amendment Bill 2023

OVERVIEW

The *Legal Deposit Act 2012* facilitates the preservation of Western Australia's published documentary heritage for current and future generations, by requiring the deposit with the State Librarian of copies of certain published material.

Legal deposit is the legal right for a collecting institution to receive published material in a jurisdiction. The Library Board, through the State Library of Western Australia, administers the *Legal Deposit Act 2012*. Regulations made under the Act set out the framework for the collection of these materials by the State Library, including the manner in which deposits are to be made.

National edeposit (NED), which was launched in 2019, is a collaboration by member libraries of the National and State Libraries Australasia. The State Library is a member library.

This world-leading approach to digital collecting is intended to enable publishers to meet their National, State or Territory legal deposit obligations by depositing a single copy of a digital publication into an online portal. This triggers an automated email deposit notification to the collecting institution in the State or Territory in which the publication was published. By doing so, the Nation's published digital documentary heritage is collected, preserved, and made accessible to current and future generations. NED has delivered efficiencies and cost savings to both publishers and the libraries that receive legal deposit publications.

While many Western Australian publishers are voluntarily depositing digital publications using NED, it is proposed to make regulations that will require publishers to do so. Before these regulations can be made, however, section 12 of the *Legal Deposit Act 2012* requires repeal.

When the *Legal Deposit Act 2012* was enacted, an online portal for the deposit of Internet publications had not yet been envisioned.

Section 12, which has yet to commence operation, requires a publisher to notify the State Librarian when they make a Western Australian publication available via the Internet.

The State Solicitor's Office has advised the State Library that section 12 of the *Legal Deposit Act 2012* cannot be satisfied by automated email deposit notifications from NED. If section 12 came into effect, a publisher would deposit in NED and then be required to notify the State Librarian of details of the publication and its location on the Internet.

This would run counter to one of the major attractions for publishers and libraries using NED as a single deposit to satisfy State and Federal legal deposit obligations.

This Bill will delete section 12, making it possible to make regulations for the deposit of Western Australian Internet publications with the State Library using NED to collect, preserve and make available online publications. This will minimise compliance costs and effort required by publishers to satisfy their legal deposit obligations and maximise efficiency and cost effectiveness for the State Library.

The State Library intends to be selective regarding the digital/online publications collected from Western Australian publishers (including State Government agencies and local governments). Targeted publications will be those that include information that might be of interest to researchers and the general public now and in the future.

Publishers will only be expected to deposit new documents after they are made available on the Internet. Where the State Library identifies that a document has not been submitted, the publisher will be contacted and invited to deposit a digital copy of the document via NED. Support will be provided by the State Library to any Western Australian publisher (including local governments) using NED.

Western Australian publishers and authors will be consulted during the drafting of the proposed regulations.

CLAUSE NOTES

Clause 1 — Short title

When this Bill is assented to, it will be known as the *Legal Deposit Amendment Act 2023*.

Clause 2 — Commencement

This clause provides that the provisions of the Bill will come into operation on the day on which the Bill receives the Royal Assent.

Clause 3 — Act Amended

This clause confirms that the provisions of this Bill will amend the *Legal Deposit Act 2012*.

Clause 4 — Section 12 Deleted

This clause will provide for section 12 of the *Legal Deposit Act 2012* to be deleted.