



department for  
**culture, media  
and sport**

# Consultation on the Legal Deposit of Non-Print Works

24 February 2012

improving  
the quality  
of life for all

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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## Section 1: Introduction

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### Purpose

- 1.1 We are seeking your views on revised draft regulations and impact assessments for the legal deposit of non-print works. As this consultation follows on from an earlier consultation (which closed in January 2011) we are primarily seeking views on the parts of the regulations which have been revised. We also welcome more general feedback on any aspect of the regulations, impact assessments or guidance. The consultation will run between 24 February and 18 May 2012.
- 1.2 Please send your responses to the consultation questionnaire (at Annex A) by email to **legal\_deposit@culture.gsi.gov.uk** or by post to:  
  
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- 1.3 The guidance contained within this consultation document seeks to help publishers and deposit libraries to interpret their obligations under the draft Legal Deposit Libraries (Non-print Works) Regulations 2013 and should be read in conjunction with those draft regulations.
- 1.4 The objective of the regulations is to allow the preservation of non-print publications for future generations.
- 1.5 The draft regulations will extend the formal depositing system in the legal deposit libraries to include off line content, and on line content that can be obtained through a harvesting process. The draft regulations also cover on line content that is substantially the same as a printed work. This will remove the need for publishers to deposit in print and reduce the costs to the publishing sector.

### Legislative framework

- 1.6 The Legal Deposit Libraries Act 2003 (the 2003 Act)<sup>1</sup> reaffirmed existing provisions for the deposit of printed publications by requiring a copy of each

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<sup>1</sup> The Legal Deposit Libraries Act 2003: [http://www.opsi.gov.uk/acts/acts2003/ukpga\\_20030028\\_en\\_1](http://www.opsi.gov.uk/acts/acts2003/ukpga_20030028_en_1)

book or serial or other printed publication published in the UK to be deposited free of charge, in the British Library. In addition, five other libraries (the National Libraries of Scotland<sup>2</sup> and Wales, and the University libraries of Oxford, Cambridge and Trinity College Dublin<sup>3</sup>) are each entitled to receive, on request, one free copy of any book or other printed publication published in the UK. These libraries together with the British Library are collectively known as the deposit libraries.

- 1.7 The 2003 Act also created a framework of legislation in which regulations could be made for the deposit of non-print works - that is, work published in a medium other than print.

### **Follow on from previous consultations and key changes**

- 1.8 The Government ran a consultation on draft regulations for non-print legal deposit between 30 September 2010 and 11 January 2011<sup>4</sup>. In the light of the overall responses to the consultation we did not believe that it was viable to go forward with the regulations as they were then drafted.
- 1.9 The revised draft regulations cover off line content, and on line content that can be obtained through a web harvesting process. They also cover non-print content that is substantially the same as a printed work, giving the publisher the opportunity to deposit in a non-print format and thereby reducing the costs to the publishing sector.
- 1.10 The key changes made to these revised regulations are as follows:
- The scope of the regulations has been clarified. The regulations, and therefore the obligation to deliver under the 2003 Act, will potentially apply to all off line and on line work (published in the United Kingdom) apart from work which is exclusively or predominantly film or music, on a closed intranet, or which contains personal data on a social network-type site.
  - What will be treated as 'published in the United Kingdom' in relation to on line work has been defined. This is i) work that is made available to the public from a website with a domain name which relates to the United Kingdom or a place within the United Kingdom, or ii) work which is made available to the public by a person and any of that person's

<sup>2</sup> The Faculty of Advocates in Scotland holds legal publications in Scotland which it receives from the National Library of Scotland.

<sup>3</sup> The 2003 Act provides for non-print works to be deposited with Trinity College Dublin (TCD), but also provides that regulations may not be made in connection with TCD unless the Secretary of State is satisfied that restrictions and protections in connection with the material under Irish law will not be substantially less than within the UK. For the purposes of this consultation, however, TCD is included within the draft regulations.

<sup>4</sup> 2010-11 Consultation on regulations for non-print legal deposit <http://www.culture.gov.uk/consultations/7449.aspx>

activities in relation to the creation or publication of the work take place within the United Kingdom. Work which cannot be accessed from within the United Kingdom is excluded from this definition.

- Deposit libraries and publishers may voluntarily agree a method of delivery for on line work as an alternative to web harvesting. Where agreements are in place, deposit libraries may request delivery of work within 14 days.
- Otherwise, requests for on line work must be made by web harvester to the Internet Protocol (IP) address from which the work is made available.
- Delivery of on line content in response to a request must be by automated response to the web harvester.
- A request sent to a webpage which contains a login facility is deemed to be a request for the content behind that login facility.
- Deposit libraries will provide publishers with at least 14 days written notice of a request to a site with a login facility to allow publishers the opportunity to provide login details so that publishers will be able to meet their obligation of delivery by automated response to the web harvester. Deposit libraries will be required to use these login details for all requests to that site.
- The obligation to deliver an on line work will no longer only apply to the first deposit library to make the request, and each deposit library will be entitled to request the same work<sup>5</sup>.
- Permitted activities have been extended to clarify that deposit libraries may transfer or lend deposited material to any other deposit library; and to clarify that deposit libraries themselves may use deposited material for the purposes of reviewing and maintaining the material, and for the purpose of research and study by the deposit libraries.
- In addition to providing a copy of deposited material for non-commercial research and private study, a deposit library will be permitted to provide a copy for the purposes of parliamentary or judicial proceedings, or a Royal Commission or statutory inquiry.

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<sup>5</sup> In practice, it is unlikely that individual deposit libraries will request exactly the same work, as this will require individual deposit libraries to make requests by web harvester at approximately the same time (depending on how frequently the content of the website changed).

- The National Library of Scotland will be permitted to transfer the off line legal publications it receives to the Faculty of Advocates, in the same manner that the National Library of Scotland currently transfers printed legal publications to the Faculty of Advocates.
- The National Library of Scotland will also be permitted to transfer or lend on line legal publications to the Faculty of Advocates. The Faculty will be bound by the restrictions on the use of off line and on line material in the same way as the deposit libraries.
- In addition to adapting a computer program or database for the purposes of preservation, the deposit libraries will be permitted to adapt any off line or on line work for the purposes of preservation.

## Section 2: Micro-businesses and start-ups

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- 2.1 In March 2011, the Government announced a three year moratorium on new domestic regulation for micro-businesses and start-ups as part of the Plan for Growth<sup>6</sup>.
- 2.2 Whilst the impact assessments for the non-print legal deposit draft regulations show that the combined impact of depositing both on line and off line non-print content will reduce burden on the wider publishing industry, DCMS analysis based on the current evidence suggests that the combined impact of the regulations would present a small net cost for micro-businesses<sup>7</sup>, averaging £26 per annum.
- 2.3 Therefore, in accordance with the moratorium policy, we propose to exempt micro-businesses and start-ups from some measures within the draft regulations which may contribute to this small net cost, specifically:
- a. the obligation to deliver off line work (physical items such as CD ROMs) to deposit libraries (**regulation 19**);
  - b. the obligation to provide deposit libraries with login details to websites (**regulation 20**).
- 2.4 We propose, however, that micro-businesses and start-ups are included in three specific measures within the regulations on the basis that they will be at no cost to publishers and offer the opportunity to make savings against their current obligations. These are:
- a. a measure which will allow publishers, if they wish, to switch from providing a deposit library with a print version (the current obligation) to providing a non-print version of the same work, provided the work is published in both print and non-print formats (**regulation 18(1)**);
  - b. a measure which will allow publishers, if they wish, to choose to send their web-based content to a deposit library (**regulation 21**); and
  - c. measures which will allow the deposit libraries simply to copy freely available on line work from the internet, which will lead to no cost or obligation on publishers (**regulation 17(3) and 23(3)**).
- 2.5 The moratorium is due to run until March 2014. We would seek to remove the exemption for micro-businesses and start-ups and thereby extend the

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<sup>6</sup> [http://cdn.hm-treasury.gov.uk/2011budget\\_growth.pdf](http://cdn.hm-treasury.gov.uk/2011budget_growth.pdf)

<sup>7</sup> A micro-business is a business that has fewer than 10 employees

regulations to all publishers once the moratorium period has come to an end.  
Removing the exemption will require us to make further, amending regulations.

## Section 3: Scope of non-print legal deposit

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- 3.1 Under the revised draft regulations the scope of non-print legal deposit will be the following.

### **Off line work**

- 3.2 A copy of every off line work (work which is not accessed or delivered by means of the internet and is recorded in a physical form including a CD ROM, DVD or microform (film and fiche)) will be required to be delivered to the British Library within one month of publication. The other deposit libraries will be entitled to a copy of any off line work which they request. A request must be made within 12 months of publication and delivery must be within one month of publication or the request, whichever the later.

### **On line work**

#### *Delivery by web harvester*

- 3.3 In most cases, the delivery of on line work to deposit libraries will be by web harvester (as an alternative to web harvesting, publishers may agree with deposit libraries to deliver on line work by an different method, but this would be a voluntary arrangement and it is expected that most publishers will be content to rely on the deposit libraries' use of web harvesting to meet their delivery obligations). The 'visit' by the web harvester software to the IP address of the website hosting the work will constitute a request for that work. The regulations will make it mandatory that the delivery of the work in response to the request must be by way of automated response from the website to the web harvester.
- 3.4 For on line works behind a login facility, the request by the web harvester software to the login page will be deemed to be a request for the on line works behind that page, and the obligation on the publisher to deliver those works in automated response to the web harvester software will still apply. The draft regulations require the deposit library to give the publisher at least 14 days' notice before directing a web harvester to a login webpage for the works behind that page. This will allow time for the publisher to provide the deposit library with login details so that when the request is made by web harvester for the on line work behind the login page, the web harvester will be able to gain access behind the login page and the publisher consequently will be able to comply with the obligation to deliver the work by automated response to the web harvester. Deposit libraries will be required to use relevant registration details provided by publishers for the first and all subsequent requests by web harvester to registration or pay sites, which will avoid the need for deposit

libraries to give advance notice each time the web harvester software requests works from those sites.

*Delivery by agreed alternative method*

- 3.5 As mentioned above, the draft regulations have specific provisions for where a publisher, in place of web harvesting, has **agreed** a specific method of delivering on line work with a deposit library, for example by way of a secure upload facility to a dedicated site, or in respect of xml e-journals (see section 6).
- 3.6 Where such an agreement is in place, the draft regulations require the publisher to deliver any work requested in writing by the deposit library within 14 days of the request. Work delivered in accordance with this obligation is subject to the permitted use restrictions (see section 12) and the exemptions from liability (see section 13) that apply under the 2003 Act.
- 3.7 Alternative delivery to automated web harvesting can be negotiated at any time. Similarly, either the publisher or deposit library can ask at any time to amend the terms of an agreement, or to revert to the default system of web harvesting. There is no requirement for either a deposit library or a publisher to pro-actively seek alternate methods of delivery to web harvesting.

**Published in the United Kingdom**

- 3.8 The duty to deliver non-print (and print) work under the 2003 Act only applies to work which is published in the United Kingdom. The draft regulations define an on line work as published in the United Kingdom:
- when an on line work is made available to the public from a website with a domain name which relates to the United Kingdom or a place within the United Kingdom; or
  - when it is made available to the public by a person and any of that person's activities in relation to the creation or publication of the work take place within the United Kingdom.
- 3.9 Work for which there is no access for persons within the United Kingdom will be excluded from what is deemed to be 'published in the United Kingdom' - for example, a work that was only available for subscription to people in the USA.

# Section 4: Summary of the draft regulations

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4.1 This summary of the draft regulations gives a brief explanation of each aspect of the regulations.

## **Part 1 – Introductory**

### Citation, commencement and expiry

4.2 This section sets out how the regulations may be cited, their commencement date, and the date on which they will cease to have effect under the sunset clause.

### Review

4.3 This section sets out that the regulations should be reviewed by the Secretary of State within five years from the date that the regulations come into force. The review should consider whether the regulations have achieved their objectives and whether the objectives are still appropriate.

### Interpretation

4.4 This section describes the key definitions as used within the regulations.

## **Part 2 – Exemption for existing micro-businesses and new businesses**

This part of the regulations exempts existing micro-businesses and new businesses from certain provisions of the regulations (see section 2 above). There are provisions which cover what will constitute a new business, and provisions to cover the situation where a micro-business takes on more staff and ceases to be a micro-business during the moratorium period.

## **Part 3 – Deposit**

### Non-print work to which the Act applies

4.5 Regulation 17(1) describes the types of non-print works that potentially may fall with the scope of the regulations. In summary, this is all off line work and all on line work. Regulation 17(2) makes it clear that certain types of content are

excluded from the regulations. This is content in a closed intranet and content containing personal data on social network-type sites<sup>8</sup>.

- 4.6 Regulation 17(3) applies the same definition of non-print work for the purposes of section 10(5)(a) of the 2003 Act. The effect of this (combined with the effect of applying the definition of “published in the United Kingdom” for the purposes of section 10(5)(b) of the 2003 Act – see paragraph 4.16 below) is to permit deposit libraries to copy work of the prescribed description from the internet. This is in addition to the ability of deposit libraries to request delivery of work published on the internet under paragraph 20 of the regulations (see paragraph 4.10 to 4.12 below). The on line work which may be copied is the same as the on line work which may be requested under the regulations – that is, work published on line (apart from work on a closed intranet or work containing personal data on social network-type sites) which is published in the United Kingdom.
- 4.7 Work of this description which is copied from the internet by a deposit library or a person acting on its behalf will be subject to the restrictions on permitted use set out in the regulations. Copying the work will also be subject to the same exemptions from copyright and database right infringement, and the same provisions regarding liability for defamation, as apply to work delivered to a deposit library under section 1 of the 2003 Act.

#### New and alternative editions

- 4.8 Regulation 18(1) enables publishers to deposit a work in a non-print format if substantially the same work is published in both print and non-print formats. However, this can only be done in agreement with the deposit libraries. If no agreement is in place, the duty under the 2003 Act to deposit the work in printed format still applies. Where a work is published in a number of non-print formats only, regulation 18(2) allows the publisher to deposit the work in the non-print format of their choice.

#### Entitlement to Delivery: off line work

- 4.9 This section sets out who is entitled to receive delivery of off line work. The British Library will be entitled to delivery of every off line work published in the UK, and the other deposit libraries will be entitled to request delivery. The delivered copy must be of a quality most suitable for preservation as agreed by the publisher and the library or, in the absence of agreement, of the quality decided by the publisher.

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<sup>8</sup> In addition, under section 1(5) of the 2003 Act, the regulations do not apply to content which is exclusively or predominantly film or music.

Entitlement to Delivery: on line work delivered by web harvester.

- 4.10 This entitles deposit libraries to delivery of web-based content by a request made through a web harvester to the IP address from which the content is made available. This includes content that is freely available and content that is subject to public access restrictions, such as passwords and login details.
- 4.11 For web-based content that is freely available, the contact between the web harvester and the IP address hosting the content will constitute a request for delivery under the regulations. The regulations require that delivery in response to a request must be by automated response to the web harvester, and for freely available content this obligation will be met by the collection of the content by the web harvester.
- 4.12 For web-based content that is available behind a login facility, the same principles will apply in relation to the making of requests and delivery, except that a request to a website with a login facility will be deemed to be a request for the content behind the login facility. The delivery obligation to allow for automated collection of content behind the login facility will still apply. To allow the publisher, therefore, the opportunity to provide the deposit library with login details so that the delivery obligation can be met, the regulations (regulation 20(5)) require the deposit library to give the publisher at least 14 days' written notice of its intention to make its first request to the access restricted website. The regulations (regulation 20(6)) then require a deposit library to use these login details each time the web harvester visits the website, ensuring that the publisher will be able to comply with its obligation to deliver the content behind the login page.

Entitlement to Delivery: on line work delivered by an agreed alternative method.

- 4.13 This section allows deposit libraries and publishers to come to agreement on how web-based content can be delivered to the deposit libraries other than using the web harvesting process. It places no obligation on publishers to enter into an agreement; however, if an agreement is reached, web-based content which is deposited using the agreed method of delivery will benefit from the exemptions from liability that these regulations would offer (see section 13). The work delivered under this section must be of a quality most suitable for preservation purposes, which is to be decided by the publisher in the absence of agreement with the deposit library.
- 4.14 It aims to give publishers different options for delivery of web-based content should they not wish to deposit using the web harvesting method. It also gives clarity to publishers on timings of delivery.

### Delivery of additional information

4.15 This section sets out what additional information should be delivered with the works when depositing them. These requirements only apply to off line works, and on line works with an agreed method of delivery.

### On line work: published in the United Kingdom

4.16 This section sets out what on line works are to be considered as published in the United Kingdom and therefore falling within scope of the regulations. This section also applies this definition for the purposes of what constitutes “connected with” the United Kingdom under section 10(5) (a) of the 2003 Act.

## **Part 4 – Permitted Activities**

### Use etc. of relevant material by deposit libraries

4.17 These provisions allow deposit libraries to transfer or lend deposited material to other deposit libraries. They also allow the deposit libraries themselves to use the deposited material for the purposes of their own research. In addition, the National Library of Scotland is permitted to transfer off line legal publications to the Faculty of Advocates and to allow the Faculty of Advocates to have access to on line versions of legal publications. This gives consistency with the current arrangements under which the National Library of Scotland transfers printed legal publications to the Faculty of Advocates.

### Reader access to relevant material

4.18 This section sets out the circumstances in which a deposit library may allow readers access to the non-print works that they have had deposited with them. Each deposit library may only display the same non-print work at one viewing terminal at any one time (regulation 28). Deposit libraries must wait seven days from delivery of on line work before making the work available to readers (regulation 29).

4.19 Regulation 30 allows publishers to apply for an embargo on non-print works being viewed in the deposit libraries, if they can demonstrate that allowing access to the non-print work would, or would be likely to, unreasonably prejudice their legitimate interests. A publisher may request an initial embargo of up to three years and may make subsequent requests of up to three years, each time meeting the requirement to demonstrate prejudice.

#### Reader access to relevant material: visually impaired persons

4.20 This section allows deposit libraries to produce copies of a non-print work that are accessible to a visually impaired person, provided that accessible copies of that work are not otherwise commercially available. Deposit libraries may only provide access to one accessible copy of a non-print work at any one time.

#### Supplying copies for research etc.

4.21 This section restricts the circumstances when copies of a work can be produced by the deposit library and given to a reader. These are for the purposes of non-commercial research or private study, or parliamentary or judicial proceedings, or a Royal Commission or statutory inquiry. Copies must be in print unless the publisher has agreed that copies may be provided in another medium. The material copied must not represent more than a reasonable proportion of the wider material of which the element copied forms a part.

#### Copying relevant material for preservation purposes

4.22 This section allows deposit libraries to make copies of non-print works for preservation purposes. The copy may be made in a different medium or format from the original.

#### Adapting relevant material for preservation purposes

4.23 This section allows deposit libraries to adapt non-print works for preservation purposes. The adaptation may be made in a different medium or format from the original.

#### Disposing of relevant material

4.24 This section allows deposit libraries to dispose of deposited material by destroying it, but deposit libraries must keep at least one copy of all relevant material, and that copy or copies must be the most suitable version for preservation purposes.

## Section 5: What is web harvesting?

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- 5.1 This is a process, either automated by use of web harvester software or by manual downloading, that is used to collect web content.
- 5.2 Metadata will be collected as part of the web harvesting process but will not be used as the primary method of identifying the web pages to be harvested.
- 5.3 The deposit libraries will use automated web harvesting. Uniform Resource Locators (URLs) will be programmed into the web harvester software. The software will use an initial URL, typically a homepage, to initiate the process, and will then identify further URLs through links on the initial page.
- 5.4 The target website responds automatically, delivering a copy of content. Once the copy has been delivered to the web harvester software, it will be incorporated into the deposit library's permanent collection of on line deposit material.
- 5.5 The deposit libraries will set rules and parameters for web harvesting as part of their collections policy (see section 6) to ensure that there is no harmful impact upon the performance of the target website:
  - Only web pages and documents that are publicly available will be requested. ('Publicly available' means those which any member of the public could reasonably acquire, and is not limited to free-to-download content).
  - Deposit libraries will use standard automated protocols in order to inform the website manager (via a "user-agent string" submitted to the web server's log of server requests) on each occasion that a copy of their content is harvested for legal deposit purposes; the publisher may choose whether or not to use this information, but there will be no requirement for a publisher to make any change to their "robots.txt" permissions files, nor take any other action.
  - Web pages and documents will only be harvested periodically, as defined in the collections policy. When multiple requests for different pages and files are issued to the same website, an interval between each request will safeguard against any risk of using up bandwidth or overloading the server.
- 5.6 The web harvester software will automatically follow links from the home or root webpage to the next levels down within the same domain, issuing a separate request for each page or file.

- 5.7 The deposit libraries' web harvester software will use an automated process (a "user-agent string") to identify itself and inform the website owner about which resources it is requesting; it will also provide a link for further information.
- 5.8 See Annex C for the full Glossary accompanying this guidance.

## Section 6: Collections policy and how delivery will operate in practice

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### **Collections policy**

6.1 The deposit libraries will maintain and publish a non-print deposit collections policy describing their collecting strategy and high level priorities for non-print legal deposit. Deposit libraries will identify which publishers (and publications) are in scope. Deposit libraries will use a variety of sources such as ISBN and ISSN listings, CrossRef and CIP data to identify content liable for deposit.

### **Delivery by agreement**

6.2 In some instances, a deposit library and a publisher may reach an agreement as to how that publisher's non-print content should be delivered to the deposit library. For example, one deposit library (acting on behalf of all the deposit libraries) may contact a publisher to discuss arrangements for that publisher's non-print publications to be delivered to the deposit library by way of a secure web upload facility. If an agreement can be reached then delivery under that agreement will satisfy the requirement to deliver under section 1 of the 2003 Act, and the work that is delivered will be subject to all the restrictions and exemptions that will apply to non-print work under the regulations. The quality of the work delivered by the publisher must be of a quality most suitable for preservation purposes, which will be decided by the publisher in the absence of agreement with the deposit library. The deposit libraries will co-ordinate their contact with publishers to avoid publishers having to reach separate agreements with several deposit libraries.

6.3 Another example of when a publisher and a deposit library may reach an agreement regarding delivery is where the same work is published in both print and in a non-print version. The regulations will allow the publisher and the deposit library to agree that work should be deposited only in the non-print format, effectively replacing the normal obligation to deposit a print version. However, if there is no agreement to switch from the deposit of a print to non-print version the default obligation to deposit a print version will apply. It is envisaged that the normal channels of communication between the deposit libraries and publishers will be used to arrange these agreements where they are appropriate.

## **Delivery by web harvesting**

6.4 Where there is no agreement between a publisher and the deposit libraries regarding an alternative method of delivery, then delivery of on line work which is within the scope of the 2003 Act and which is part of the deposit libraries collections policy will be done by web harvesting. The deposit libraries will co-ordinate their web harvesting programmes to provide sufficient coverage of collection and to minimise the impact on publishers' websites. Where on line work to be harvested is contained behind a login facility, publishers will have the opportunity to provide login details in order to meet their delivery obligations (see earlier sections). All passwords and login details will be managed securely by the deposit libraries. Where a publisher's website is managed by a separate company or distributor, these third parties will be regarded as proxies for the publisher themselves. The obligation to deliver remains with the publisher. A summary flow chart of the web harvesting delivery process is given at Annex B.

## Section 7: What access is allowed to deposited works?

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- 7.1 Access to non-print works that have been delivered to the deposit libraries under the 2003 Act is restricted to the display terminals on premises controlled by the deposit libraries. In the case of legal publications delivered to the National Library of Scotland, access will also be available from the Faculty of Advocates' library, in line with current arrangements for access to legal publications in print format.
- 7.2 There are no restrictions on how many display terminals a deposit library may have. However, the display terminals must be situated on premises controlled by the deposit libraries and only readers who are on premises controlled by the deposit libraries can be allowed access to (i.e. can view) the work on a display terminal.
- 7.3 Access to the same non-print work is restricted to one display terminal at any one time in each of the deposit libraries. This largely mirrors the system for printed publications.
- 7.4 The access restrictions will also apply to the Faculty of Advocates, which is treated as a deposit library in relation to non-print legal publications.

## Section 8: Works produced in print and non-print formats

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- 8.1 We recognise that in many cases, the same work (or substantially the same work) may be published in both print and non-print and we intend to give the publishers and the deposit libraries as much scope as possible to find a solution which suits them both. Therefore, the draft regulations provide that the publishers and the deposit libraries may agree whether the print or non-print work should be deposited, but in the absence of any agreement, it is the print work which must be deposited.
- 8.2 Similarly, we recognise that the same non-print work (or substantially the same non-print work) may be published in more than one medium – e.g. CD ROM and on line. In such cases, the draft regulations provide that the publisher and the deposit library may agree in which medium the work should be deposited. In the absence of an agreement, it is the publisher who chooses in which medium the non-print work should be deposited.

## Section 9: How is published content kept secure by the deposit libraries?

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### Background

9.1 A common concern in publisher responses to the Government's earlier consultation on non-print legal deposit relates to the security of the content deposited under the proposed regulations. Set out below are the systems and procedures that the deposit libraries have already implemented, and a small number of additional controls that will be in place prior to any material being deposited under the regulations. Together, these controls demonstrate that all reasonable steps have been taken to ensure the security of non-print content held by the deposit libraries.

### Security Policy and Principles

9.2 Each deposit library has a well-defined information security policy. Key points are:

- Information governance committees within each library or its parent institution will coordinate that library's information governance, which includes information security. The committees will direct, monitor and control the implementation of information security within the relevant library;
- Each library or parent institution has appointed a senior person as responsible for information security. This ensures that information security is addressed at a sufficiently senior level within each organisation;
- Each library or parent institution also has a technology security officer to focus on the technical aspects of the security of digital information.

### Infrastructure Security

9.3 The deposit libraries are linked by a dedicated shared infrastructure which allows them to share electronic data. The shared infrastructure is protected against unauthorised access and other information security risks to the confidentiality, integrity and availability of information held within it. All access to each library's facilities and information assets is restricted to authorised hardware, software, organisations, and people. Access to each library's network is limited to authorised users according to business need and in accordance with the library's information security policy.

- 9.4 Access to each library's network is controlled by industry leading security appliances.
- 9.5 The shared infrastructure supports a content management system (CMS) developed by the British Library, which allows for the management of digital material, including material deposited under the regulations. The CMS has additional security. A dedicated security appliance ensures that each point of access to the CMS is secure, and access through this appliance and the firewalls around the CMS is limited to specially authorised British Library staff.
- 9.6 Transfer of data between nodes of the CMS (of which there are four, in London, Boston Spa, Aberystwyth and Edinburgh) is across secure network connections. Transferred data is encrypted.
- 9.7 The nodes of the CMS constitute a private network which has no direct connection to the internet.
- 9.8 Each node of the CMS is separate from the CMS itself and library staff have no access to the CMS. Separate access must be explicitly granted.
- 9.9 A Secure File Transfer Protocol is available for publishers depositing electronic content. Content deposited into the CMS itself only takes place at the British Library. Content is secured within the shared library infrastructure whilst waiting to be processed, and is deleted from the shared infrastructure once processing into the CMS is complete.
- 9.10 Information systems, software and data are protected against malicious software. A leading anti-virus product is used to check all electronic content on each library's network; in addition, a second anti-virus product performs a second stage virus check on all content deposited to and stored in the CMS.
- 9.11 Reader access to content will be controlled. The system will allow delivery of content only to designated terminals that have a restricted capability to print, and no active USB ports. The system is already in place and currently the first delivery causes all subsequent requests for the same content from the same library to be denied for the rest of the day. In future, the system will allow another view of the same content as soon as the previous view has ended.
- 9.12 The CMS records all requests for access to items that it holds. This access record will allow verification that no concurrent access has occurred.
- 9.13 The results of all IT audits – internal and external – are reported to the relevant information governance committee, which is responsible for ensuring that prompt and effective action is taken to remedy vulnerabilities that have been

identified. Should rectification be required, a follow-up audit is commissioned to ensure that the reported vulnerability has been addressed and the security of the shared infrastructure is maintained at all times.

9.14 Once the regulations come into force, external audits of the IT security for non-print legal deposit, including the management of access in all deposit libraries, will be carried out on a regular basis. The results of all such external audits, plus any internal audits for non-print legal deposit, together with any action plans to remedy vulnerabilities, will be confidentially reported to all members of the joint management structure in which both publishers and the deposit libraries are represented. Additional jointly-sponsored audits will be carried out when required.

### **Publisher Password Security**

9.15 The draft regulations give publishers the opportunity to provide relevant login details to allow delivery of content from behind login pages. The deposit libraries will implement additional security measures to protect these login details and ensure that they are only used for the purposes permitted by the regulations.

9.16 The deposit libraries suggest that only login details that have been encrypted should be transferred by publishers to deposit libraries.

9.17 A commercial password management system will be implemented to store access credentials in a secure repository. This password management system will mediate all access to the publisher web site. It will limit access to the login details to named individuals who will have administration access to the password repository. A log of all transactions made in this password management system will be maintained.

9.18 For each publisher, the deposit library responsible for harvesting their content will maintain details of a designated contact at that publisher. If the supplied login details should at any time fail, a representative of the library will contact the designated person to resolve the issue.

## Section 10: Can publishers obtain an embargo to prevent access to non-print works which have been deposited?

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- 10.1 To ensure that the impact on publishers' business models is kept to a minimum, the draft regulations include some general provisions about embargoes. These are intended to protect the commercial interests of those publishers who may be unreasonably prejudiced if readers are allowed access to their works in a deposit library, albeit on the limited basis prescribed under the draft regulations and described in section 7 above.
- 10.2 Although the possibility of an embargo does not remove the obligation to deposit the publication with a deposit library, an embargo means that readers will not be able to access the publication for a specified period of time.
- 10.3 The draft regulations provide that the deposit library must impose an embargo for a period specified by the publisher not exceeding three years if the publisher submits a written request and demonstrates that viewing by a reader within that specified period would, or would be likely to:
- conflict with the normal exploitation of the work; and
  - unreasonably prejudice the legitimate interests of the publisher.
- 10.4 It is worth noting that this goes further than the position in relation to print publications. For print, embargoes are the subject of agreement between the publisher and the deposit library.
- 10.5 An initial embargo may be requested at any time. A publisher may make subsequent requests for further embargoes of the same publication. These subsequent requests must be made in the six month period (bar the final two weeks) before the expiry of the existing embargo.

## Section 11: Do publishers have to deliver a copy of any computer program and any information necessary to access the work?

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11.1 The draft regulations provide that the publisher must deliver, in relation to off line work and on line work with an agreed method of delivery:

- a copy of any computer program and any information necessary to access the work including any information required to allow a reader to read the work;
- a copy of any manual or other material that accompanies the work and is made available to the public.

11.2 This is intended to cover any additional material, such as computer programs or manual/guides, which is published to accompany off line formats such as CD ROMs. It is also intended to cover any programs or information which is necessary to access on line work delivered in a manner agreed between the publisher and the deposit library. This provision does not cover work which is web harvested as it is not considered that additional programs or material will be relevant to such work.

## Section 12: What are the permitted activities in relation to the deposited works?

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12.1 We are mindful of the need to ensure that these regulations must not unreasonably prejudice the interests of the publishers of the deposited non-print works. We also recognise that new business models are rapidly developing and will continue to evolve as publishers find new ways of commercially exploiting their works.

12.2 Only those activities which are specifically permitted in the draft regulations may be carried out in relation to the deposited non-print works. These permitted activities are deliberately restrictive.

### **Use of non-print works by deposit libraries**

12.3 As set out in section 4 above, the deposit libraries will be permitted to transfer or lend deposited work with each other, and will be permitted to use deposited material for the purposes of their own research. The National Library of Scotland will also be permitted to provide the non-print legal publications it receives to the Faculty of Advocates in order to continue the current arrangement in place for printed legal publications.

### **Providing access for readers to the deposited works**

12.4 The deposit libraries may provide readers with access to non-print work. However, a deposit library may only allow the same work to be accessed at one display terminal at any one time.

### **Access for visually impaired persons**

12.5 The draft regulations also allow deposit libraries to produce and to allow access to copies of non-print works that are accessible to visually impaired persons (“accessible copies”). Once again, these provisions in the draft regulations are based on the existing law which governs how libraries can produce accessible copies of the publications they hold.<sup>9</sup>

### **Copying and providing copies to readers**

12.6 The draft regulations largely mirror the existing law which governs how and when a library may take a copy of part of a work and provide that copy to a reader. The deposit library must be satisfied that the copy is for a person who

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<sup>9</sup> See section 31A-31F of the Copyright, Designs and Patents Act 1988 as amended by the Copyright (Visually Impaired Persons) Act 2002.

will use it for the purpose of non-commercial research, private study, parliamentary or judicial proceedings, a Royal Commission, or a statutory inquiry and will not use it for any other purpose. Copies must be in print unless the publisher agrees otherwise.

### **Copying and adapting for preservation purposes**

12.7 The draft regulations contain provisions based on those which the Intellectual Property Office has previously consulted upon in relation to the Gowers recommendation for libraries and archives to be able to take copies and format shift for preservation purposes<sup>10</sup>.

12.8 Accordingly, we are proposing that the deposit libraries may copy and adapt the deposited non-print works in order to preserve them and in order to replace a copy of a non-print work which has been deposited in another deposit library and subsequently lost, destroyed or damaged. We are also proposing that the deposit libraries may make a copy in a different format or medium when they consider that this is necessary for preservation purposes.

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<sup>10</sup> <http://www.ipso.gov.uk/pro-policy/consult/consult-closed/consult-closed-2009/consult-2009-gowers2.htm>

## Section 13: When are the deposit libraries and the publishers exempt from certain legal liabilities?

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- 13.1 In delivering work (print or non-print) under section 1 of the 2003 Act, publishers are exempt from breach of contract or from infringement of copyright, publication right, database right or patent in relation to the work (see section 9 of the 2003 Act). The exemption extends to the delivery of computer programs or additional information as required under the draft regulations.
- 13.2 Deposit libraries are exempt from breach of copyright and database right from anything done in relation to deposited material which is permitted to be done by the draft regulations (see section 8 of the 2003 Act).
- 13.3 Publishers and deposit libraries will be exempt from liability for defamation resulting from activities relating to deposited works. However, the exemption will be lost if the publisher or the deposit library knew or ought to know that the material was defamatory and they had a reasonable opportunity to prevent the use.
- 13.4 Deposit libraries are also exempt from copyright and database right infringement, and have the same qualified exemption from liability for defamation, in relation to work copied from the internet by a deposit library as permitted by the regulations.

## Section 14: Do publishers have to deposit metadata?

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14.1 Metadata is the information that describes an electronic publication and includes details such as: its author and title; its physical properties (type of file, file size); unique characteristics (numerical identifier, an ISBN). All of this information helps a reader to find an electronic publication. In many cases metadata may form part of the non-print work and would fall within the legal deposit obligation.

14.2 The draft regulations are based on the following principles:

- publishers are not expected to generate metadata solely for the purpose of non-print legal deposit;
- metadata will be collected as part of the harvesting process;
- publishers do not have to deposit any other metadata that is not collected as part of the harvesting process;
- metadata that is collected by the deposit libraries through the legal deposit of works cannot be sold to any third party.

## Section 15: How can the deposit libraries dispose of deposited works?

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- 15.1 Deposit libraries may destroy duplicate copies of non-print work, but they must retain at least one copy of the non-print work. The copy or copies they do retain must be in the format most suitable for preservation.
- 15.2 Apart from this, and aside from the exception that the National Library for Scotland may permanently transfer off line legal publications to the Faculty of Advocates, the deposit libraries cannot otherwise dispose of deposited non-print work. For example, they could not sell any copies of the non-print works which have been obtained under the legal deposit regime, even on expiry of the copyright in those works.

## Section 16: Co-operation and dispute resolution between publishers and deposit libraries

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- 16.1 The regulations are not intended to prescribe in detail how deposit libraries should operate the non-print deposit regime. We would expect, however, the deposit libraries to have in place clear management structures and policies to support how they will operate the regulations.
- 16.2 The Joint Committee on Legal Deposit<sup>11</sup> (JCLD) is a body composed of representatives from the deposit libraries and the publishing trade associations. Its main purpose is to facilitate cooperation between publishers and deposit libraries for the effective implementation of statutory and voluntary deposit arrangements. Its work includes discussing non-print collecting policies, reaching mutual agreement on questions of interpretation, jointly assessing new developments, and establishing technical pilots or voluntary schemes where appropriate. From 2012, the JCLD will extend its membership to include expertise and perspectives from other publishing interests in non-print deposit, as well as those already represented by the publishing trade associations.
- 16.3 The JCLD is currently establishing a process for resolving disputes that may arise between a publisher and a deposit library in connection with the regulations. The process is designed to encourage resolution by mutual consent wherever possible, but includes the option of referral to an independent arbitration panel if necessary, and is expected to be in place before the regulations commence:
- *Stage 1: Negotiation.* Direct discussion between the two parties in dispute—the relevant publisher and requesting library—to explore the issue and resolve their differences. This may include informally referring the matter to the JCLD (or to members of the JCLD) for their views and guidance in an attempt to identify any potential compromises that might be acceptable to both parties.
  - *Stage 2: Mediation.* If resolution cannot be achieved by negotiation, the matter will be referred formally to the JCLD, for the JCLD to mediate in an attempt to resolve the dispute. Each party will have the opportunity to make submissions to the JCLD, and the JCLD will appoint a representative or sub-group to act as mediator.

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<sup>11</sup> Information on JCLD <http://www.bl.uk/aboutus/stratpolprog/legaldep/members/legaldepositmembers.html>

- *Stage 3: Arbitration.* If resolution cannot be achieved by mediation, the matter may be referred formally to an arbitration panel, composed of two publisher representatives, two library representatives and an independent chair appointed by the JCLD. Each party may make a written submission to the panel and should agree to be bound by its decision.

# Annex A - Consultation Questionnaire

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## **What information are we seeking?**

As this consultation follows on from an earlier consultation (which closed in January 2011) we are primarily seeking views on the parts of the regulations which have been revised. There are also a limited number of questions which relate to aspects of the regulations which have not changed, but where we did not previously receive a sufficient number of responses.

We also welcome more general feedback on any aspect of the regulations, impact assessments or guidance, and the final question of this questionnaire is designed for you to provide any wider comments.

## **What are the main changes since the previous consultation?**

The earlier draft regulations provided for freely available on line content to be web harvested, and required access-restricted on line content to be delivered upon request (option four in the impact assessment for on line content). The current draft regulations provide for both freely available and access-restricted on line content to be web harvested, with the opportunity for publishers to provide login details in relation to access-restricted content. Whilst the default position will be web harvesting, the current draft regulations also provide the opportunity for deposit libraries and publishers to come to an agreement on alternative methods of depositing on line material (option five in the impact assessment for on line content).

The main changes to the regulations are highlighted in section 1 of the consultation document.

## **How should I complete the questionnaire?**

Please send your responses by email to [legal\\_deposit@culture.gsi.gov.uk](mailto:legal_deposit@culture.gsi.gov.uk) or by post to:

Daniel Halpern  
Libraries Team  
Culture Directorate  
Department for Culture, Media and Sport  
2-4 Cockspur Street  
London  
SW1Y 5DH

Question Number	Question
	<b>Consultees</b>
1	<p>Are you responding on behalf of:</p> <p>A micro business (&lt;10 employees)</p> <p>A business with less than 20 employees</p> <p>A small business (&lt; 50 employees)</p> <p>A medium business (&lt;250 employees)</p> <p>A large business (250+ employees)</p> <p>A legal deposit library</p> <p>Other</p>
	<b>Non-print works within scope</b>
2	<p><i>Regulation 17</i></p> <p>The types of non-print works within scope of the regulations have been clarified. The regulations, and therefore the obligation to deliver under the 2003 Act, will potentially apply to all off line work and all on line work (that is published in the UK).</p> <p>The type of off line and on line work excluded from the regulations has also been clarified. This is content on a closed intranet and content containing personal data on social network-type sites<sup>12</sup>.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence for your answers.</p>

<sup>12</sup> In addition, under section 1(5) of the 2003 Act, the regulations do not apply to content which is exclusively or predominantly film or music.

	<b>Delivery of on line work</b>
<p><b>3</b></p>	<p><i>Regulation 20</i></p> <p>The obligation to deliver an on line work will no longer only apply to the first deposit library to make the request. In theory, each deposit library will be entitled to request the same work. In practice, however, it is unlikely that individual deposit libraries will request exactly the same work, as this will require individual libraries to make requests by web harvester at approximately the same time (depending on how frequently the content of the website changed).</p> <p>In addition, the deposit libraries will operate a co-ordinated collections policy which will avoid duplicated collection of on line content.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence for your answers.</p>
<p><b>4</b></p>	<p><i>Regulation 20</i></p> <p>Where no agreed alternative method of delivery is in place, if a deposit library wishes to request an on line work, the request must be made by web harvester to the IP address from which the work is made available.</p> <p>Delivery of on line work requested by web harvester must be made by way of automated response to the web harvester.</p> <p>A request made to a webpage which contains a login facility is deemed to be a request for the content behind that login facility.</p> <p>Deposit libraries are required to provide publishers with at least 14 days' written notice of a request to site with a login facility in respect of work behind that facility. This will give the publisher the opportunity to provide login details to the deposit library so that, once the request is made, the publisher will be able to meet its obligation to deliver the work by automated response to the web harvester. The enforcement provisions in section 3 of the 2003 Act will apply in circumstances where a publisher fails to deliver on line work in response to a request. Deposit libraries will be required to use the login details provided by publishers.</p> <p>The purpose of this regulation is to allow deposit libraries to collect both freely available and access-restricted on line work by web harvesting, at nil or minimal cost or inconvenience to the publisher.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence</p>

	for your answers.
<b>5</b>	<p><i>Regulation 21</i></p> <p>Where a publisher and a deposit library, as an alternative to web harvesting, have agreed between themselves another method of delivery for on line work, delivery to the deposit library must be within 14 days of a written request for that work.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence for your answers.</p>
	<b>Published in the United Kingdom</b>
<b>6</b>	<p><i>Regulation 23</i></p> <p>An on line work will be treated as published in the United Kingdom if:</p> <p>(a) it is made available to the public from a website with a domain name which relates to the United Kingdom or to a place within the United Kingdom; or</p> <p>(b) it is made available to the public by a person and any of that person's activities in relation to the creation or publication of the work take place within the United Kingdom.</p> <p>Any on line work which is not accessible from within the United Kingdom, will be excluded from this definition.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence for your answers.</p>
	<b>Permitted Activities</b>
	<u>Use etc. of relevant material by deposit libraries</u>
<b>7</b>	<p><i>Regulation 24</i></p> <p>Permitted activities have been extended to provide for deposit libraries to transfer or lend deposited material to any other deposit library. This will allow the deposit libraries to store and manage non-print work on a secure, linked network.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence for your answers.</p>

<p><b>8</b></p>	<p><i>Regulation 25</i></p> <p>The deposit libraries will be allowed to use deposited material for the purposes of reviewing and maintaining the material, and for the purpose of the deposit libraries' own research and study.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence for your answers.</p>
<p><b>9</b></p>	<p><i>Regulations 26 and 27</i></p> <p>The National Library of Scotland will be permitted permanently to transfer the off line legal publications it receives to the Faculty of Advocates, in the same manner that the National Library of Scotland currently transfers printed legal publications to the Faculty of Advocates.</p> <p>The National Library of Scotland will also be permitted to transfer or lend on line legal publications with the Faculty of Advocates.</p> <p>The Faculty of Advocates will be bound by the restrictions on the use of off line and on line material in the same way as the deposit libraries.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence for your answers.</p>
	<p><u>Research and private study</u></p>
<p><b>10</b></p>	<p><i>Regulation 32</i></p> <p>In addition to providing a copy of deposited material for non-commercial research and private study, a deposit library will be permitted to provide a copy for the purposes of parliamentary or judicial proceedings, or a Royal Commission or statutory inquiry.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence for your answers.</p>
	<p><u>Adapting relevant material for preservation purposes</u></p>
<p><b>11</b></p>	<p><i>Regulation 35</i></p> <p>In addition to adapting a computer program or database for the purposes of preservation, the deposit libraries will be permitted to</p>

	<p>adapt any off line or on line work for the purposes of preservation.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence for your answers.</p>
	<p><u>Disposing of copies of deposited works</u></p>
12	<p><i>Regulation 36</i></p> <p>This regulation clarifies that a deposit library may dispose of any deposited work, or copy or adaptation of any deposited work, provided that the deposit library retains at least one version of the work. The retained version must be the most suitable for preservation purposes.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence for your answers.</p>
	<p><u>Copying work from the internet</u></p>
13	<p><i>Regulation 17(3) and 23(3)</i></p> <p>The combination of these regulations will permit the deposit libraries to copy work from the internet, in addition to the ability to request delivery of such on line work under other parts of the regulations (regulation 20). Copied work will be subject to the same permitted use restrictions, and the same exemptions in relation to copyright, database right and defamation as work which is delivered.</p> <p>Please comment on whether you think any issues will arise with this approach. Please provide reasons and, where appropriate, evidence for your answers.</p>
	<p><b>Impact Assessments</b></p>
	<p><u>Impact on publishers: micro-businesses and start-ups</u></p>
14	<p>In accordance with the moratorium policy, we propose to exempt micro-businesses and start-ups from the draft regulations, except for the following measures:</p> <ul style="list-style-type: none"> <li>• <i>regulation 18(1)</i> allowing publishers, if they wish, to switch from providing a deposit library with a print version (the current obligation) to providing a non-print version of the</li> </ul>

	<p>same work</p> <ul style="list-style-type: none"> <li>• <i>regulation 21</i> allowing publishers, if they wish, to choose to send their web-based content to a deposit library</li> <li>• <i>regulations 17 (3) and 23(3)</i> allowing deposit libraries simply to copy freely available on line work from the internet, which will lead to no cost or obligation on publishers</li> </ul> <p>Do you agree that the above regulations would place no mandatory burden on micro-businesses and start-ups? If applicable, please provide evidence and a breakdown of your calculations.</p>
	<u>Impact on publishers: general</u>
<b>15</b>	If you are a publisher, for how long do you believe works will continue to be produced in print and non-print formats?
<b>16</b>	If you are a publisher of works in print format, how much does it currently cost you to deposit these works in that format? Please provide a breakdown of your calculations, including the average number of works deposited per year.
<b>17</b>	In relation to question 16, if you are a publisher of works in print format, do you consider there will be savings in the medium to long term by being able to deposit these works in non-print format, in relation to otherwise having to deposit in print format? Please provide your calculations.
<b>18</b>	<p><i>Alternative editions</i></p> <p>If you are a publisher who publishes the same works in print and non-print format, would you seek an agreement with a deposit library to deliver these works in the non-print format rather than the print format as currently required? What do you estimate the savings to be from depositing in non-print format? Please also provide an estimate of the initial set up costs for depositing non-print works, and an estimate of average annual costs (including cost per work deposited) in the medium to long term once the system has been established. Please provide a breakdown of your calculations.</p>
<b>19</b>	<p><i>Delivery of off line works</i></p> <p>If you are a publisher of off line non-print works, how much would it cost you to deliver these works to a deposit library? Are you already a participant in a voluntary scheme for depositing off line non-print works and if so how would the cost of depositing differ under the regulations? Please provide a breakdown of your calculations,</p>

	including the average cost per work deposited.
<b>20</b>	<i>Delivery of on line works by web harvester</i>  If you are a publisher of on line works with access restrictions, please estimate the administrative costs for providing relevant login details to allow web harvesting by a deposit library. Please estimate any other relevant set up costs, and the on-going costs (if any) of depositing through online harvesting in the medium to long term.
<b>21</b>	<i>Delivery of on line works by agreed alternative method</i>  If you are a publisher of on line works, would you seek to negotiate with a deposit library an alternative method of delivery to web harvesting? If so, please estimate costs of the initial set up and an estimate of average annual costs in the medium to long term once the system has been established, including the cost per work deposited via this method.
	<u>Impact on deposit libraries</u>
<b>22</b>	Do you agree that our description of the impact on the Deposit Libraries, as set out in the impact assessments is accurate? If not why not? Please provide evidence and a breakdown of your calculations.
	<b>Other</b>
<b>23</b>	Do you have any other comments, issues, concerns or questions?  If so please can you clearly label what it is and then set it out, providing any relevant evidence.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

**If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential.**

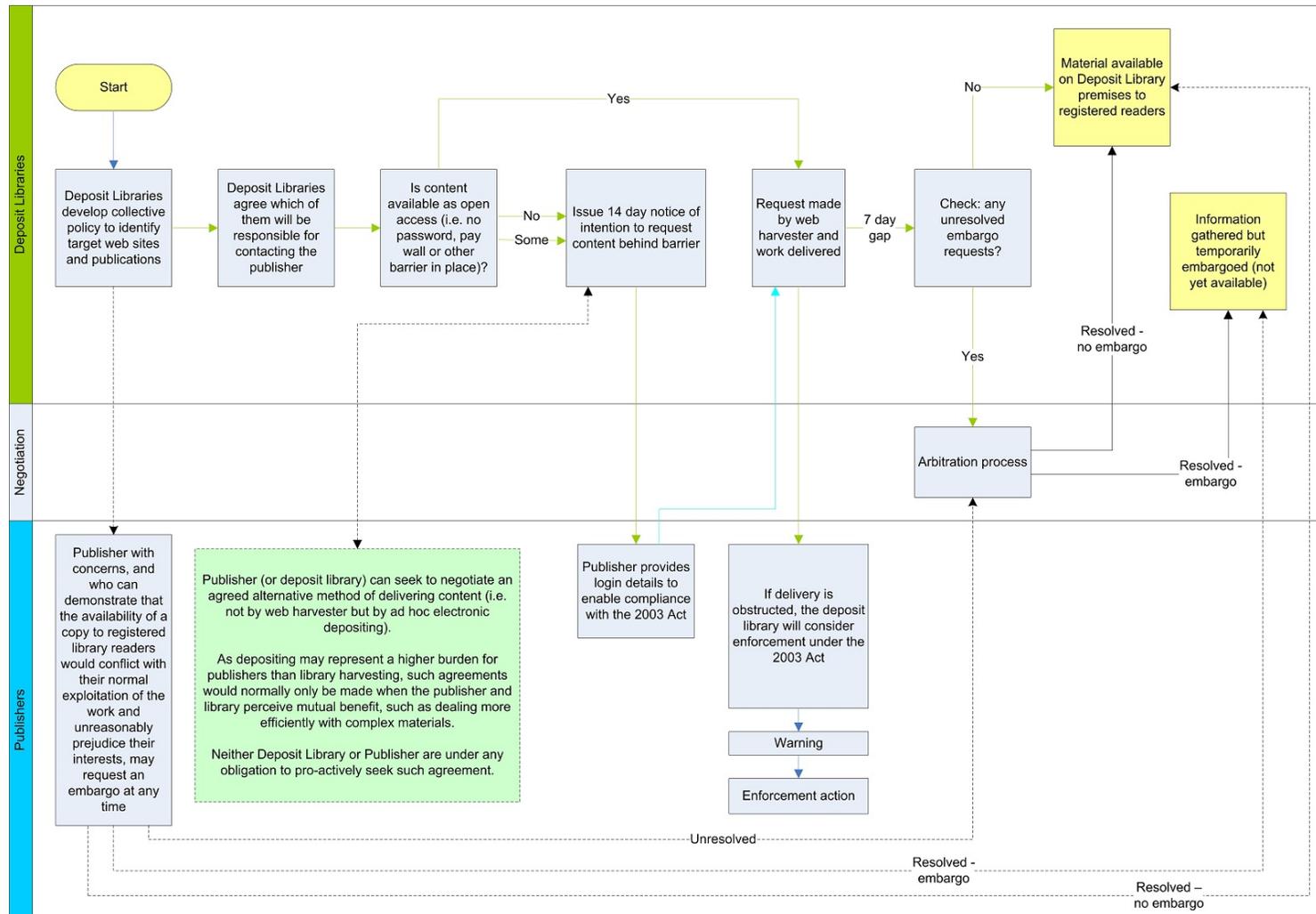
If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by

your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

The consultation is guided by the Government's Code of Practice on Consultation which is available at: <http://www.bis.gov.uk/files/file53268.pdf>

# Annex B – Summary of the web harvesting process



## Annex C – Glossary

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Term	Definition	Source and/or Comment
Access	Non-print works can be accessed by library readers via display terminals on library premises controlled by the deposit libraries, but in such a way that no more than one person in each deposit library can read the same work at any one time	
CIP	Cataloguing-in-Publication (CIP) provides records of new and forthcoming books in advance of publication in the United Kingdom and Ireland, which are included in the British National Bibliography	Source: British Library website <a href="http://www.bl.uk/bibliographic/cip.html">http://www.bl.uk/bibliographic/cip.html</a>
Collecting Policy	A policy document published by the legal deposit libraries each year that sets out a plan of what content they will be collecting under the non-print legal deposit regulations and what strategies they propose using to collect it.	
Copying (print and digital)	The duplication of information (either part or whole). Material can be duplicated either by making a print copy (to paper) or a digital copy (downloading to a storage device, for example a disk, memory stick, mobile phone, etc.)	
CrossRef	CrossRef is an independent membership association, founded and directed by publishers. CrossRef's mandate is to connect users to primary research content, by enabling publishers to work collectively. CrossRef is also the official DOI® link registration agency for scholarly and	Source: <a href="http://www.crossref.org">www.crossref.org</a>

	professional publications	
Digital Library System	Name given to a secure repository or digital asset storage system developed by the British Library.	
(Resource) Discovery	The process of searching, finding, identifying, selecting and obtaining access to a work.	The internationally recognised Functional Requirements for Bibliographic Records (FRBR), at the most basic level, are to support: Finding a collection, Identifying the relevant work, Selecting a manifestation of it, and Obtaining [access to] it. See: <a href="http://www.ifla.org/en/publications/functional-requirements-for-bibliographic-records">http://www.ifla.org/en/publications/functional-requirements-for-bibliographic-records</a>
Domain Name	<p>A domain name is a subset of a URL (Uniform Resource Locator) that is selected and registered by an individual, business or organisation to represent its web presence. It is an alpha-numeric web name, corresponding to the numeric IP address, which may have various suffixes, such as .com, .net, .edu, or.org, that can designate the type or, sometimes, location of a site.</p> <p>Because the Internet is based on numeric IP addresses, not alphanumeric domain names, a 'domain name server' is required to translate domain names into IP addresses. For example, the domain names of large organisations, such as Microsoft.com, can represent various IP addresses. And, the Microsoft URL extends beyond the domain name to include pages for all its services and products, for example, <a href="http://mobile.microsoft.com/windows/en-">http://mobile.microsoft.com/windows/en-</a></p>	The domain name is composed of different parts, one of which is the 'country code top level domain', in other words, that part referred to, for example, as .uk. This is known, then, as the 'UK domain' and as such has been estimated as including over 7 million registered domain names.

	us/windows7/default.aspx is the URL for Microsoft's Windows 7 mobile web page	
(Technical) Infrastructure	Generally, this means the physical hardware used to deliver information and services, but usually also includes the software required by the system, especially to facilitate the interaction between the user and the data stored by the hardware.	
Ingest	The process of taking or importing files for computer storage, usually in a digital asset management system or repository.	
Internet	A world-wide system of computer networks that uses a standard, Internet Protocol Suite (TCP/IP) to facilitate data transmission. Not to be confused with the World Wide Web (WWW), it uses this international communication standard to route data around the world, with delivery facilitated by IP addressing.	Where the 'Internet' is the delivery mechanism and the 'WWW' is the presentation mechanism. The relationship is one of 'whole to part' where the 'Web' is a subset of the 'Net'
IP Address	An Internet Protocol (IP) Address is a numerical identifier or label attributed to any device (PC, laptop, tablet etc.) which is active on the Internet. The label identifies the computer and where it is located, and is the means by which ('address') data is sent to a computer upon request.	
ISBN Listings	International Standard Book Numbers (ISBNs) are 13-digit codes which are used to identify a specific edition of a book title from one specific publisher; the ISBN is unique to that edition. ISBNs for UK publishers are issued by the UK International Standard Book Numbering Agency	
ISSN Listings	International Standard Serial Numbers (ISSNs) are 8-digit codes which are used to identify a serial publication, i.e. a	

	publication issued in successive parts, having a common title, and intended to be continued indefinitely. ISSNs for UK publishers are issued by the British Library	
Iterative Steps	The web harvester will automatically follow links from the home or root page to the next level down within the same domain, issuing a separate request for each page or file. This process may be repeated at each level within the same domain, until either there are no further links to follow or the web harvester reaches a maximum number of links programmed by the operator.	
(Descriptive) Metadata	Data or information about a publication that that makes it discoverable ('information that enables resource discovery')	A description or descriptors of the publication's intellectual works or subject matter (including author, title etc.); physical properties (type of file, file size, etc.); unique characteristics (such numerical identifiers as ISBNs, etc.).  From Legal Deposit Advisory Panel's 'The Legal Deposit of UK Commercial and Other Protected On line Publications Recommendation'
Password	Any combination of characters (alpha, numeric, etc.) that is used to prove identity or gain access to a resource.	
Publicly Available	Any information that is not deemed as a private work.	
Robots.txt	A permissions file, located in the root directory, that is designed to be read by web harvesters and gives instructions about which web pages should not be harvested or indexed by a search engine. The Robots	

	Exclusion Protocol is a convention to prevent cooperating web harvesters and other web robots from accessing all or part of a website which is otherwise publicly viewable. It is considered a 'courtesy', but not obligatory, to abide by the instructions given.	
Seed List	Information that is manually loaded into the web harvester that sets the beginnings of the search parameters such as target URLs for home or root pages.	
Snapshots	In harvesting for deposit, an individual file-based duplication of any given on line publication at a single point in time and in a single state.	While a snapshot is a single copy of a publication, multiple 'instances' or a series of snapshots are stored to form a cohesive representation of that publication over time.
Uploading/Downloading	Uploading is the transfer of data, in the form of a file for example, to a remote system, for storage, to provide access, etc. Downloading is the receiving of or retrieval of that data, by the legal deposit libraries. Examples of remote systems include web, FTP, email or other servers.	
URL	Whereas an IP is a computer's address on the internet, a Uniform Resources Locator (URL) is the address representing a page or other resource on the Web.	
User-agent String	The user-agent string is a piece of information communicated by the web harvester (and typically by web browsers and other software) to the web hosting server, which provides some information about the web harvester, and its IP address.	
Web Browser	A program used to view web-based documents/publications etc.	
Web Feeds	Web feeds are a form of distribution or syndication over	

	<p>the web by which data is streamed continuously over time. The most commonly recognised sources of web feeds are from news sites, but more structured specific data can be streamed, such as weather data. RSS, or <i>Really Simple Syndication</i>, is one type of web feed.</p>	
Web Harvester	<p>The software which is used to search the world wide web and requests delivery of an on line publication on behalf of a Legal Deposit Library.</p>	
Web Hosting Server	<p>A computer server which hosts the data which forms the content of the webpage being viewed or harvested.</p>	
World Wide Web	<p>A series of hyperlinked documents or publications (presented as 'web pages' and 'web sites') broadcasted through such mark-up languages as HTML and XML, and viewed through the use of 'web browsers'.</p>	
XML	<p>Extensible Mark-up Language: As with HTML, XML defines the delivery, appearance of a document over the Web. However, it provides a wider variety of structured format and also allows for coding that describes works in a semantic way, i.e. through the inclusion of fields for metadata.</p>	



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