

The new regulations for the Norwegian Copyright Act

Introduction

The new regulations for the Norwegian Copyright Act were passed by Cabinet on Friday 23.11.07 and took effect 01.01.08.

The regulations involve several changes for the National Library and the library sector in general regarding the opportunity to digitize works in the collections and to distribute materials digitally to library users.

In addition to archives and libraries and institutions of research and education, the revised regulations will also apply to public museums and museums that receive public grants.

The National Library

The National Library has obtained a special authority to digitize the cultural heritage, and will be allowed to digitize all works in its collection. This will apply both to material received according to the Legal Deposit Act and to material purchased by the National Library. The provision enables the National Library to freely choose the formats we deem most suited to fulfil our special commission of preservation.

Also, the National Library will be allowed to produce copies, digitally or in other formats of our choice, of intellectual works subject to legal deposit but missing from our collection.

The National Library has also been given permission to display legally deposited material on terminals located on its premises. This allows the library's users to freely study the material on screen and make paper printouts in accordance with the general licence to copy for private use in § 12 of the Norwegian Copyright Act.

All other mediation of legally deposited material not covered by these regulations is to be regulated by the Legal Deposit Act, and possibly by the Copyright Act after a new revision.

Regulation for archives, libraries, educational and research institutions and museums

Making copies

The general rule in the copyright act and its regulations is that copies made by the archives, libraries and museums (ALM) must be in the same format as the original work. If a book or magazine has been purchased in paper format, the copy must be made on paper. The new

regulation gives ALM institutions an extended permission to make copies in other formats, so they will be able to digitize works from their own collections.

In order to be allowed to digitize an item in for example a library collection, the regulations require this to be necessary from a preservation and safeguarding standpoint. Also, it must be impossible to obtain a new copy from the seller, publisher, importer or producer. The regulation also retains the permission to transfer works to microforms and to new storage systems if this is necessary because of obsolete reading/playback equipment.

The permission to transfer works to other formats for preservation and safeguarding purposes applies equally to non-published works.

Making copies for lending

In cases where the original work in the library collection is especially prone to damage and it is impossible to obtain a new copy, paper copies may be made for lending purposes. Only a limited number of lending copies must be made.

If a library has music and film works in its collections that are especially prone to damage and that are irreplaceable, the regulations allow for the preparation of lending copies even in other formats than that of the original. The music and film works may not be loaned electronically in the form of a digital file, but the library may make physical copies, such as CDs or DVDs. The library may not loan more copies than the number of originals in its collection.

Digital distribution of intellectual works

Libraries that have digital works in their collections, either purchased in digital form or because they have been digitized in accordance with the regulations, may display the works on terminals located on the library's own premises. "Own premises" is to be interpreted restrictively, meaning that the terminals must be placed within the four walls of the library. For example, material may not be made available on an educational institution's intranet.

The permission to make available only applies to published intellectual works in the library's own collection, and only insofar as there are no special clauses that limit the access.

The borrower must not be able to make a digital copy of the material, but will be allowed to make printouts of individual items for private use.

The regulations also allow for controlled remote lending of digitized works to other libraries following a specific requisition from a specific

individual. In such cases, the work may be read on terminals located on the institution's premises or the borrower may have a paper printout of individual works in accordance with the copyright act's §12 dealing with private use.

The borrower may not have the work transmitted to his home in digital form unless this has been cleared or authorized in a special agreement. Nor can remotely lent material become part of the collections of the borrowing library. It must be returned or deleted after use.

When material has been purchased in digital form, the purchase agreement should regulate the extent to which it can be distributed. Examples: purchased electronic periodicals or electronic editions of encyclopaedias etc.