

# Copyright (Excluded Works) Order 2008

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No. S 649

## COPYRIGHT ACT (CHAPTER 63)

### COPYRIGHT (EXCLUDED WORKS) ORDER 2008

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

#### Citation and commencement

1. This Order may be cited as the Copyright (Excluded Works) Order 2008 and shall come into operation on 1st January 2009.

#### Application

2. This Order shall remain in force until 31st December 2012.

#### Definitions

3.—(1) In this Order, unless the context otherwise requires, “specialised format” means a format that —

- (a) is in Braille, audio or digital text; and
- (b) is intended solely for use by handicapped readers.

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

- (a) it is no longer being manufactured;
- (b) it is no longer commercially available; or
- (c) its repair is no longer commercially available.

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

- (a) is no longer being manufactured; or
- (b) is no longer commercially available.

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

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

- (a) any computer program to which access is controlled by means of an obsolete dongle that is damaged or defective;
- (b) any computer program or video game —
  - (i) which is distributed in an obsolete format; and
  - (ii) to which access may be gained only by means of the original medium or hardware in or with which it was designed to be used or operated,

where circumvention of a technological access control measure that has been applied to it is for the purpose of preservation or archival reproduction of published digital works by a library or archive;

- (c) any literary work —
  - (i) which is in an electronic book format; and
  - (ii) in respect of which a technological access control measure has been applied to all existing electronic book editions of the work (including any digital text edition made available by an institution assisting handicapped readers) so as to —
    - (A) prevent the operation of the read-aloud function of the