

Legal Deposit Act 54 of 1997 (LDA)

Topic: Advertising, Marketing and Publications

IN A CALABASH

Introduction

Businesses and people residing and/or operating in South Africa produce, publish and distribute to the public information about their business, activities, market, product or profession in the form of brochures, magazines, journals, pamphlets, CDs and audio-visual publications.

These businesses and people have a legal obligation to deposit a certain number of copies of each of their published documents to designated areas owned by the State.

This practice is not unique in South Africa. It is international practice for governments to require producers of all types of published documents to deposit such documents in designated national or state archives.

Due to the growing importance of information, in whatever format, be it in paper, audio-visual and / or electronic media, from a historical, political and cultural significance, such documents need to be preserved and retained.

Objectives of the Act

The Legal Deposit Act (LDA) provides for the preservation of national documentary heritage through a compulsory system whereby all publishers are required to ensure the legal deposit of published documents. The Act aims to ensure the preservation, cataloguing and access to published documents emanating from or adapted for South Africa.

The overarching purpose of the LDA is to collect, preserve and make available to present and future users certain documents that contain the intellectual and cultural heritage of the country.

Application of the Act and its implication to Tourism

Published material

The LDA applies to any published material, being any document produced and made generally available in multiple copies or locations to any member of the public, whether through purchase, hire, loan, subscription, licence or free distribution, or any member of an association or a society, the membership of which is open to any qualifying member of the public.

Publisher

The LDA applies to any publisher, being the person or body, whether public or private, which—

- publishes and distributes a document;
 - authorises and accepts the financial risk of the production of a document, whether by that person or body or by another, which is intended to be generally available; and
 - imports a document produced abroad for a South African publisher or a document specially adapted for the South African market to make it generally available.
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Summary of the provisions of the Act

The LDA provides for the deposit of books, magazines and other information-bearing documents such as films, videos, music CDs and DVDs published or produced in South Africa, as well as those produced abroad specifically for distribution in South Africa. The LDA provides a broad legislative framework for the number of copies to be deposited, their format and quality, the information required from publishers and producers, when copies must be deposited and the action to be taken against defaulting publishers and producers.

Documents to be deposited at the State archives

'Documents' have been defined by the Act to include all types of documents, whether electronic, in physical format or in audio format, which are produced and which are made available to the general public.

This includes any document that—

- is intended to be issued and distributed to the South African public and which stores or conveys information in textual, visual, auditory, electronic or any other format;
- is a revised version or edition of a document that is significantly different from the previous version or edition in respect of its content or physical presentation and which is intended to be issued and distributed to the South African public; and/or
- is published in South Africa or adapted for the South African public.

Deposit of documents and information

A publisher shall send copies of all published documents to certain prescribed places, described below. The prescribed number of copies of documents other than official

publications shall not exceed five. A publisher must furnish the State Library with any requested information pertaining to each published document at its own cost.

The publisher is obligated to dispatch any such document within 14 days of the day on which the document is published.

Exemptions

If a publisher is likely to suffer serious financial or other hardship should he or she supply a copy of the document free of charge to every place of legal deposit owing to the high unit cost of publishing any particular document or its unique or labour-intensive production method, the publisher of such document may apply to the Minister of Arts, Culture, Science and Technology for exemption from the obligation to supply a copy of such document. Such exemption does not apply to a publisher's obligation to supply a copy of a document to the South African Library or the National Film, Video and Sound Archives and to furnish the State Library with the prescribed information.

The Minister may grant financial relief to publishers who suffer serious financial hardship as a result of their obligation to supply certain documents to the South African Library or the National Film, Video and Sound Archives, provided that such relief shall not exceed the cost of producing an additional copy of such documents.

If a place of legal deposit does not require a particular document or category of documents, the head of such place of deposit may exempt the publisher in writing from its obligation.

If a publisher is exempted from the obligation to supply a copy of a document to the State Library, such publisher must nevertheless furnish the State Library with the prescribed information, as may be requested.

Places of legal deposit



The prescribed places of legal deposit are—

- the City Library Services, Bloemfontein;
- the Library of Parliament, Cape Town;
- the Natal Society Library, Pietermaritzburg;
- the South African Library, Cape Town;
- the State Library, Pretoria;
- the North West Provincial Library and Information Services;
- the Mpumalanga Provincial Library Service;
- the National Film, Video and Sound Archives, Pretoria, for certain categories of documents; and
- any other library or institution prescribed by the Minister for certain prescribed categories of documents.



WHAT HAPPENS IF YOU DO NOT COMPLY?

In addition to possible civil proceedings, any publisher who fails to comply with its obligations to submit copies of publications to the prescribed places of deposit shall be guilty of an offence and liable on conviction to a fine of up to R20 000.



RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACT

- Identify any publications which have to be deposited at the places of legal deposit; and
- Once the document has been published, ensure that not more than 5 copies of each publication is submitted to the places of legal deposit within 5 days of publication date.

FURTHER INFORMATION

Regulator

Department of Arts, Culture, Science and Technology

Legal Deposit Contact

National Library of South Africa (NLSA)

Tel: (012) 321 8931