

FAQ ON COPYRIGHT AMENDMENT

Some Frequently Asked Questions to the Amendment to the Copyright Act of India, 1957 and its Impact on Print Impaired Persons

1. **Who benefits?** All print impaired persons be they totally blind, low vision, learning disabled or orthopedically challenged in certain ways are covered by this clause.
2. **What can be done now that was not possible earlier?** Print impaired individuals, or authorized service providers / organizations can suitably modify a work under Copyright so as to make it accessible to meet the specific needs of the print impaired person concerned. This means that a standard printed book, for example may be converted to an alternate format (not necessarily a special format) including Braille, large font, text readable by screen reader, audio (be it synthetic audio or human voice recording) without seeking the permission of the rights holder.
3. **How is this different?** In the past, any alternate format creation could have been defined as an infringement unless it was backed up by prior written permission from the rights holder. One had to seek the permission if one had to be on the right side of the law. Now thankfully we do not need permissions.
4. **Are there any restrictions?** Yes, there are reasonable restrictions such as
 - conversion should be a not for profit activity. In case it is a for profit activity, there is a separate clause under which a special license can be obtained.
 - the beneficiaries has to be a bonafide print impaired person or organizations that serve them.
 - reasonable precaution need to be taken by all that the accessible copy is not misused commercially.
5. **Does this mean that the publisher has to give soft copy?** No. The copyright law does not cover the delivery of books which is the purview of another department and another law. We are planning to take it up as well. For the present, these exemptions allow an existing work which is not accessible to be made accessible without permission.
6. **Can accessible copy be shared?** Effectively yes, as long as it is not misused for commercial purposes and is available to print impaired persons only.
7. **What is the wording of the clause?**
It runs as follows.

Section 52 (1)The following act shall not be an infringement of copyright, namely:
(zb) the adaptation, reproduction, issue of copies or communication to the public of any work

in any accessible format, by —

(i) any person to facilitate persons with disability to access to works including sharing with any person with disability of such accessible format for private or personal use, educational purpose or research; or

(ii) any organization working for the benefit of the persons with disabilities in case the normal format prevents the enjoyment of such works by such persons:

Provided that the copies of the works in such accessible format are made available to the persons with disabilities on a nonprofit basis but to recover only the cost of production:

Provided further that the organization shall ensure that the copies of works in such accessible format are used by persons with disabilities and takes reasonable steps to prevent its entry into ordinary channels of business.

Explanation. For the purposes of the sub-clause, “any organization” includes an organization registered under section 12A of the Income Tax Act, 1961 and working for the benefit of persons with disability or recognized under Chapter X of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 or receiving grants from the Government for facilitating access to persons with disabilities or an educational institution or library or archives recognized by the Government.

8. What provisions affect the creation of accessible copies when it is undertaken as a not for profit activity?

The following new section involving a compulsory license would be applicable

³31B. (1) Any person working for the benefit of persons with disability on a profit basis or for business may apply to the Copyright Board, in such form and manner and accompanied by such fee as may be prescribed, for a compulsory license to publish any work in which copyright subsists for the benefit of such persons, in a case to which clause (zb) of sub-section (1) of section 52 does not apply and the Copyright Board shall dispose of such application as expeditiously as possible and endeavor shall be made to dispose of such application within a period of two months from the date of receipt of the application.

(2) The Copyright Board may, on receipt of an application under sub-section (1), inquire, or direct such inquiry as it considers necessary to establish the credentials of the applicant and satisfy itself that the application has been made in good faith.

(3) If the Copyright Board is satisfied, after giving to the owners of rights in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, that a compulsory license needs to be issued to make the work available to the disabled, it may direct the Registrar of Copyrights to grant to the applicant such a license to publish the work.

(4) Every compulsory license issued under this section shall specify the means and format of

publication, the period during which the compulsory license may be exercised and, in the case of issue of copies, the number of copies that may be issued including the rate or royalty: Provided that where the Copyright Board has issued such a compulsory license it may, on a further application and after giving reasonable opportunity to the owners of rights, extend the period of such compulsory license and allow the issue of more copies as it may deem fit.

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