

Deed of Variation

This Deed of Variation is made pursuant to Part VII Division 2 of the *Copyright Act 1968* on 2010.

PARTIES

COMMONWEALTH OF AUSTRALIA represented for the purposes of this Agreement by the Attorney-General's Department ('The Commonwealth Agent') and acting on behalf of such other Departments, Agencies and Commonwealth Corporations as may endorse this Agreement ('The Participating Bodies')

COPYRIGHT AGENCY LIMITED ABN 53 001 228 799, ABN 53 001 228 799 of Level 15, 233 Castlereagh Street Sydney, New South Wales 2000 (**CAL**)

RECITALS

- A. By Deed of Agreement dated 10 June 2003 (the Head Agreement), the parties have set terms and a method for determining Equitable Remuneration payable for Government Copies under sections 183A – C of the *Copyright Act 1968* (the Act).
- B. The parties have agreed to vary the Head Agreement in the manner set out in this Deed of Variation.

WHAT IS AGREED

The parties agree to vary the Head Agreement as follows:

- 1 Replace clause 2.1.2 with the following:

"2.1.2 An Endorsement may be lodged at any time during the Term and, for any extension of the Term, may be renewed as follows:

- (a) within ten days of execution of this Deed of Variation, CAL shall provide a copy of the Deed of Variation to each Participating Body and invite the Participating Body to indicate if it no longer wishes to subscribe to the Head Agreement as varied; and
- (b) where, within 20 days from receipt of the copy of the Deed of Variation, the Participating Body has not advised CAL of its intention to withdraw from the Head Agreement as varied, the Participating Body is deemed to have subscribed to the Head Agreement as varied."

- 2 In clause 3.1, replace

'30 June 2009' with '30 June 2012', so that clause 3.1 will read:

'Subject to clauses 3.2, 3.3, 12.3 and 15, this Agreement commences on 1 July 2001 and continues in force until 30 June 2012 (the Term)'.

3 In clause 3.2 replace `30 June 2009' with `30 June 2012', so that clause 3.2 will read:

`The Term for Digital Copying and Communication of Newspaper Clips is agreed to have commenced on 1 July 2001 and shall end on 30 June 2012'.

4 In clause 8, amend the heading to read:

DIGITAL COPYING AND COMMUNICATION OF COPYRIGHT MATERIAL OTHER THAN NEWSPAPER CLIPS AND PRINT MUSIC

5 Replace clause 8.1 with

8.1 Remuneration for Digital Copying and Communication of Copyright Material is determined in accordance with the rates and formula set out in Schedule 6, except for:

- (a) Newspaper Clips; and
- (b) Print Music; and
- (c) Copyright Material which is available in electronic form and which is authorised for further digital reproduction or communication by the virtue of a subscription or other licence granted by or on behalf of the rightsholder.

6 Replace schedule 3, part B, paragraph 2(b)) with:

‘(b) Digital Copying and Communication

Remuneration for Digital Copies and Communication of Newspaper Clips is calculated and payable in accordance with the following tables:

Table 1: Rates Effective for the period 1 July 2001 to 30 June 2006

Number of Employees	In-House Press Clipping Service per Digital Newspaper Clip made available electronically for up to 90 days	Press Clipping Service per Digital Newspaper Clip made available electronically for up to 90 days	Per Digital Newspaper Clip stored on an intranet or electronic database longer than 3 months: (Stored from post expiry of the 90 days)		
			Year 1	Year 2	Year 3 +
1 – 1000	\$1.25	\$0.25	\$0.20	\$0.10	\$0.05
1001 – 2000	\$1.35	\$0.35	\$0.20	\$0.10	\$0.05
2001 – 3000	\$1.45	\$0.45	\$0.20	\$0.10	\$0.05
3001 – 4000	\$1.55	\$0.55	\$0.20	\$0.10	\$0.05
>4000	\$1.65	\$0.65	\$0.20	\$0.10	\$0.05

Table 2: Rates Effective 1 July 2006 to 30 June 2009

Number of Employees	In-House Press Clipping Service per Digital Newspaper Clip made available electronically for up to 90 days	Press Clipping Service per Digital Newspaper Clip made available electronically for up to 90 days	Per Digital Newspaper Clip stored on an intranet or electronic database longer than 3 months: (Stored from post expiry of the 90 days)		
			Year 1	Year 2	Year 3 +
1 – 1000	\$1.31	\$0.26	\$0.20	\$0.10	\$0.05
1001 – 2000	\$1.42	\$0.37	\$0.20	\$0.10	\$0.05
2001 – 3000	\$1.53	\$0.48	\$0.20	\$0.10	\$0.05
3001 – 4000	\$1.64	\$0.59	\$0.20	\$0.10	\$0.05
>4000	\$1.75	\$0.70	\$0.20	\$0.10	\$0.05

Table 3: Rates Effective 1 July 2009

Number of Employees	In-House Press Clipping Service per Digital Newspaper Clip made available electronically for up to 90 days	Press Clipping Service per Digital Newspaper Clip made available electronically for up to 90 days	Per Digital Newspaper Clip stored on an intranet or electronic database longer than 3 months: (Stored from post expiry of the 90 days)		
			Year 1	Year 2	Year 3 +
1 – 350	\$1.45	\$0.29	\$0.23	\$0.12	\$0.06
351 – 1000	\$1.57	\$0.41	\$0.23	\$0.12	\$0.06
1001 – 2000	\$1.69	\$0.53	\$0.23	\$0.12	\$0.06
2001 – 3000	\$1.81	\$0.65	\$0.23	\$0.12	\$0.06
>3000	\$1.93	\$0.77	\$0.23	\$0.12	\$0.06

7 Replace schedule 6 paragraph 1 with:

1. The Remuneration payable by each Participating Body for Digital Copying and/or Communication of Copyright Material other than:
 - (a) Newspaper Clips; and
 - (b) Print Music;

- (c) Copyright Material which is available in electronic form and which is authorized for further digital reproduction or communication by virtue of a subscription or other licence granted by or on behalf of a rightsholder

Year	Formula
2001-2002	\$0.50 cents x EFT_employee
2002-2003	\$1.50 x EFT
2003-2004	\$1.50 x EFT
2004-2005	\$1.50 x EFT
2005-2006	\$1.60 x EFT
2006-2007	\$2.50 x EFT
2007-2008	\$2.50 x EFT
2008-2009	\$2.50 x EFT
2009-2010	\$2.50 x EFT
2010-2011	\$2.50 x EFT
2011-2012	\$2.50 x EFT

Rate calculations for Strata 2 Departments calculated by agreement on the following EFT numbers effective 1 July 2004 as per the following table:

	Nominated EFT 2004/05, 2005/06, 2006/07, 2007/08.	Nominated EFT 2008/09,
Australian Taxation Office	<u>5000</u>	15000
Centrelink	6000	6925
Department of Defence	17000	17000

EFT numbers for Strata 2 Departments post 2008/09 to be supplied on or before the 30 June in each year.