

**THE IMPLEMENTATION, MONITORING AND  
MANAGEMENT OF AN EFFECTIVE LEGAL DEPOSIT SYSTEM  
FOR SOUTH AFRICA**

by

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## Summary

The aim of this study is to explore the issues surrounding the implementation, monitoring and management of legal deposit in South Africa.

Legal deposit is a statutory obligation which requires that a producer of any type of publication which is available to the public, be it a commercial, public or private organisation or an individual, deposit one or more copies of the publication with a recognised national institution.

The Legal Deposit Act of 1997 governs the deposit of publications in South Africa. Section 8 of the Legal Deposit Act makes provision for the constitution of a Legal Deposit Committee to oversee the implementation of the Act. This Committee, which consists of a broad spectrum of role players, expressed a need for an investigation into the many issues and questions relating to the provision of publications subject to legal deposit as required by the Legal Deposit Act. Although the Legal Deposit Act, at the time of its promulgation in 1998, was one of the first in the world to make provision for the deposit of electronic publications, this study focuses mainly on the legal deposit of books as this was identified by the Committee as an area of immediate and critical concern.

The study begins with a comprehensive literature study to obtain sufficient theoretical information on legal deposit and of the problems and issues surrounding the subject internationally and in South Africa.

- An overview of elements and issues covered in legal deposit legislation provides the background against which the investigation into the state of legal deposit and its implementation is undertaken. With the aim of contextualising South African legislative issues, a

comparative study of legislation in the United Kingdom, Australia, Malaysia and South Africa is also undertaken.

- A discussion of the stages and activities involved in legal deposit, the need for monitoring and enforcement procedures and the external and internal factors that influence the way in which legal deposit is implemented in a country, provides an overall understanding of the legal deposit process.
- The implementation of legal deposit also depends on the committed participation of various role players. The individual roles and needs of these stakeholders in the legal deposit process are identified.

The empirical investigation was conducted in two stages. The first phase of the study involved a survey to explore the attitudes, opinions and actions of publishers and legal deposit libraries, as the two main role players, to determine how these factors affect the successful implementation of legal deposit in South Africa. This forms the bulk of the study. The second phase of the study consisted of a feasibility study to determine the state of compliance with legal deposit in the country.

The outcomes of the empirical study were used to identify gaps and weaknesses in the current legal deposit system. This formed the basis to make recommendations for the improvement of procedures, methods and services. Areas critical to the successful implementation of a legal deposit system are highlighted.

The study concludes with a view to the future. The importance of implementing a sustainable system of legal deposit on which the development of an effective system for the legal deposit of electronic publications can be built, is stressed.

## Keywords

Legal deposit

Legal Deposit Act

Legal Deposit Committee

Legal deposit institutions

Legal deposit legislation

Legal deposit libraries

National Library of South Africa

Publishers

South Africa

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# 1 Background to the investigation

## 1.1 Introduction

Legal deposit can be broadly defined as “a government provision which compels producers of all types of publications to deposit a certain number of copies of each publication in designated or similar institutions” (Jasion, 1991: 7). It is a system that has been in practice in various countries for many centuries and is widely acknowledged as the main instrument for building up and preserving a nation’s published heritage.

With a few exceptions, most countries where legal deposit is administered rely on a legal instrument of some sort to enforce compliance by publishers, printers, or manufacturers of publications, to ensure the development of such a national collection (Lariviere, 2000). Enforcement measures differ according to the individual legislative procedures of different countries, ranging from small fines to more drastic measures such as prohibiting the publishing and distribution of publications in cases of non-compliance (Crews, 1988: 566; Jasion, 1991: 8; Lor, 1995: 100). Issues surrounding the monitoring and enforcement of legal deposit legislation directly affect the implementation of legal deposit by depository institutions and the manner in which publishers will comply with legislation.

Recent decades have seen no significant decrease in the production of print material (Merril, 2000: 21), and a rapid proliferation of electronic publications, causing legal deposit to become an extremely complex and dynamic area of research (Muir, 2001: 655). In addition to the above-mentioned tracing and monitoring issues, the fundamental structures and

systems needed for the effective practical implementation of a legal deposit system, whether in the print or the digital environment, must be investigated.

All of these issues are particularly relevant in South Africa where the latest revision of its legislation makes provision for the legal deposit of not only print, but all types of publications, specifically also electronic/digital material.

## ***1.2 Purpose and scope of the study***

The revised South African Legal Deposit Act (Act no. 54 of 1997) (see Appendix A) came into force on 1st July 1998. Under section 8 of the Act, a Legal Deposit Committee with a broad representation of stakeholders is mandated to coordinate and promote the implementation of the Act, but no specific measures are provided, or guidelines given, for ways in which the Committee can monitor the processes involved with legal deposit. Similarly, the literature provides no tried and tested international examples of systems for tracing and enforcement measures that could be adapted and implemented within the South African context.

This study arises from the need expressed by the Legal Deposit Committee for an inquiry into the many issues and questions surrounding the provision of documents subject to legal deposit as expanded in the Legal Deposit Act.

The Legal Deposit Act of 1997, at the time of its promulgation, was one of the first in the world to make provision for the legal deposit of electronic publications (Lariviere, 2000). However, although the topic of electronic publications will thus inevitably be touched upon in this study, the

present investigation focuses mainly on the issues surrounding the supplying of print documents, specifically books, to the legal deposit libraries.

This restriction was instituted because the legal deposit system in South Africa was, and still is, focused mainly on print publications, of which books form the greater part. Also, an efficient and successful scheme in the print environment will arguably serve as a good foundation for implementing a programme of legal deposit in the digital environment. With the reality of preparing for the preservation of electronic publications rapidly approaching, an investigation into the legal deposit of books was thus identified as an area of immediate and critical concern.

### ***1.3 Research problem***

#### **1.3.1 Statement of the problem**

In the light of the above, the main research problem to be addressed in this study centres on the following: *What is the present situation with regard to the implementation, monitoring, and management of the legal deposit of books in South Africa?*

This study encompasses a wide terrain of concerns. To effectively resolve these, attention is directed to some essential sub-problems/questions arising from the central focus of the research project.

- The first sub-problem focuses on what legal deposit entails. Aspects to investigate include the main aims of legal deposit, the evolvement of legal deposit into the current universally accepted system, the

elements contained in legal deposit legislation, and South African legislation compared to that of other countries.

- The next sub-problem lies in identifying the activities and procedures involved in practically implementing legal deposit in national libraries or other legal deposit institutions.
- The question also has to be asked who the various stakeholders in the process of legal deposit are, and the levels of their involvement in the legal deposit process in general, and in South Africa in particular, need to be examined.
- The next sub-problem is discovering how the opinions and activities of the two main role players, namely publishers and legal deposit libraries, impact on the implementation of legal deposit in South Africa.
- As a fifth sub-problem, the extent to which publishers in South Africa comply with legal deposit legislation also has to be determined.
- The final sub-problem/question that arises from these last two issues, is to ascertain what gaps are present in the current system, and whether any improvements in the practical implementation of legal deposit, as well as in the tracing and monitoring mechanisms, can be brought about.

### **1.3.2 Research goals**

Legal deposit cannot be successfully implemented without the positive and committed participation of the publishers and the legal deposit

libraries. The study therefore aims firstly to investigate how the attitudes, opinions and behaviours of these core role players affect the depositing of material subject to legal deposit. This investigation is the main concern of the study and forms the bulk of the research project.

No studies have been done in South Africa to determine the state of compliance with legal deposit requirements in the country. Therefore the second purpose of this study is to find out how many of the books that are subject to legal deposit are actually supplied to the legal deposit libraries.

Based on the results achieved from these two investigations, the study will provide suggestions and recommendations for improved procedures and methods for monitoring and managing legal deposit in the future.

#### ***1.4 Research strategy and methodology***

Due to the scope of the study a traditional research approach focusing on either a specific qualitative or quantitative method proved to be insufficient to encompass the diverse aspects of the investigation. To best explain and explore the research problem, it was thus practicable to shift from the constrictions of one research design and explore the advantages of different combinations of design features without depriving the study of “a feasible and efficient strategy that ... satisfies the requirements for good research design” (Trochim, 2006). Qualitative and quantitative approaches in this particular study were, however, not used with the traditional purpose in mind of generating various data sets to address the same research problem (Baker, 1994: 284; Brewer & Hunter, 1989: 82). The project comprised two different, definite research phases, each with its own specific aim and methods.



A qualitative research approach employing both elements of descriptive research as well as elements of an exploratory nature was followed in the first phase of the project with the aim of determining the feelings and actions of the role players with regard to legal deposit and its implementation. This part of the project encompassed face-to-face interviews with small selected groups or individuals representing the publisher populations. Similar interviews were conducted with representatives of the five legal deposit libraries.

The second phase of the study followed on the first and used exploratory research methods to gather the necessary quantitative data. With the aim of establishing the extent of legal deposit compliance by publishers, secondary analyses of existing data was undertaken to obtain figures indicating the number/percentages of books delivered as legal deposit.

#### **1.4.1 Literature survey**

Before commencing with the empirical study, a comprehensive literature study was undertaken with the aim of obtaining sufficient theoretical knowledge of the area of study, and of the problems and most relevant issues surrounding legal deposit both internationally and in South Africa. This provided the foundation for conducting the two phases of the empirical research, for the subsequent analysis of the data obtained and for the future recommendations that were provided.

#### **1.4.2 First phase: survey research**

Survey research in the form of qualitative semi-structured face-to-face interviews with representatives of both the publishing industry and the legal deposit libraries was identified as the most appropriate way to

investigate what effect the attitudes, opinions and behaviours of these two role players have on the implementation of legal deposit in South Africa.

Non-probability sampling in the form of purposive sampling was used to accomplish blanket selection of publishers for the survey. Purposive sampling was the obvious choice of sampling method, as the aim of the project was to identify a particular pre-determined type of publisher, namely commercial publishers as members of the Publishers' Association of South Africa (PASA), for in-depth investigation. Quota sampling, another form of non-probability sampling, was used to identify the categories of publishers that reflect the proportions of the original PASA population groupings for the interviews. No sampling was needed in selecting the legal deposit libraries, as all five libraries were automatically included in the survey.

The data was documented in the form of tape-recorded accounts of the interviews that were later transcribed by an independent person. The first part of the interviews comprised a set of pre-determined questions, and formal coding approaches for analysing the data were therefore not planned. However, the flexibility of the interview structure allowed for additional issues to be presented, and these responses were grouped together into themes. Open-ended questions were introduced in the second part of the interview sessions, and these responses were organised into themes/categories using formal coding principles.

### **1.4.3 Phase two: feasibility studies**

The second research phase used feasibility studies to gather information on the degree and scope of compliance with legal deposit by publishers.

Feasibility studies were regarded as the best way in which a variety of methods could be used to obtain the required results.

A relatively small sample of elements, considered to provide the necessary information, was selected using a combination of purposive and judgement sampling, both of which are forms of non-probability sampling. The elements included ISBN (International Standard Book Number) lists obtained from the National Library, book reviews in South African daily newspapers, and publications in South African libraries as listed on Sabinet Online's SACat database. These elements comprised the sampling frames from which specific units for use in the study were selected. The following sources/sampling units were used: ISBNs with the 0-620 prefix; two daily newspapers, one Afrikaans and one English; and lists of books in academic libraries belonging to the GAELIC consortium.

The aim in this phase of the project was not in-depth analysis of these secondary sources, but rather using the records to check against the records of books received as legal deposit with the aim of obtaining figures that reflect the levels of compliance with legal deposit requirements over a specific time period.

#### **1.4.4 Analysis and interpretation of data**

Analysis and interpretation of the data obtained from the surveys highlighted the areas where problems are experienced by publishers and the libraries regarding issues covered in legislation. The results also suggested reasons for compliance and/or non-compliance, gave insight into various other aspects of the research problem as covered by the open-ended questions contained in them, such as awareness of legal deposit,

communication, and so forth, and provided many valuable suggestions for tracing non-compliant publishers.

The results obtained from the feasibility study were summarised in percentages, tables and charts as the situation presented itself. Analysis of these results indicated how much of the material subject to legal deposit had been received as legal deposit, and the differences in the level of compliance of small, medium and large publishers were calculated.

### ***1.5 Value of the study***

The main contribution of this study is in its pioneering role in identifying the practical issues that are faced in the realm of legal deposit in South Africa. The outcomes of the project provide information on the needs of and problems experienced by publishers and libraries regarding legal deposit, and give an indication of publishers' levels of compliance with legal deposit. This type of investigation has never been done before and fulfils a particular need expressed by the Legal Deposit Committee, the body bearing the ultimate responsibility for the monitoring of the legal deposit programme and the enforcement of legal deposit legislation in the country.

When the study was initiated it was anticipated that the results would form the basis for designing a regular monitoring programme to be implemented under the auspices of the Legal Deposit Committee. This expectation has already been partially realised with the development of an action plan in response to a feedback report presented to the Committee after completion of the first phase of the project.

The success of a research project such as this also lies in its contribution to the decision-making process. This study provides a “state-of-the-art” report that can be used by all role players in the legal deposit system to re-think and re-evaluate their approaches and attitudes towards the execution of legal deposit legislation. This could lead to the development of policies and strategies best suited to the needs of the individual legal deposit libraries and those of the publishers.

The value of this study will be clearly demonstrated if the above re-thinking exercises and subsequent implementing of improved strategies bear fruit in the form of a sustainable system of legal deposit on which the development of an effective system for the legal deposit of electronic publications can be built.

Although this study is specific to the South African situation at the present time, the methods employed and suggestions provided may have a wider scope for implementation than in this country only. Other countries on the African continent for example, could use the methods and suggestions of this study, or adaptations thereof for their own purposes.

The final valuable contribution of this study is the direct contact with publishers and other role players made during the course of the research project which could be used beneficially to establish good relationships and foster a positive and enthusiastic attitude towards the important national issue of legal deposit.

## *1.6 Division of chapters*

This introductory chapter provides an overview of the area of research, covering the core research problem and sub-problems identified for investigation, the goals of the study and the methodology and findings of the practical research project.

The following three chapters present the topics and areas identified during the literature study as central to the research questions.

Chapter two discusses the various elements and issues pertaining to legal deposit legislation. In an attempt to provide a conceptual framework for identifying the characteristics and qualities of South African legislation, the legal deposit systems of the United Kingdom, Australia, Malaysia and South Africa are compared.

Chapter three covers the central activities that constitute the basis for the legal deposit process. The stages in the practical implementation of legal deposit are discussed. Special attention is also given to the especially relevant issues of the monitoring and enforcement of legal deposit. The chapter concludes with a look at further factors that impact on achieving the goal of a successful process of legal deposit.

None of these activities and procedures can be executed without the active participation of the role players in the legal deposit scheme. Chapter four attempts to identify these role players in general, and in South Africa particularly, and looks at the ways in which they fulfil their individual functions or otherwise influence the execution and accomplishment of legal deposit.

Chapter five presents an overview of the two phases of the empirical project. A qualitative investigation determines the opinions and attitudes of the two main role players, the publishers and libraries, towards legal deposit. To further expand on and contribute to the findings generated by this phase of the project, feasibility studies are employed to ascertain publishers' levels of compliance with legal deposit. The methodological approaches, procedures, and assessment/evaluation of the methods that were used, are covered.

Chapter six contains the findings of the two phases of the empirical study. This in-depth analysis of the data provides the information needed to identify gaps in the present legal deposit system and forms the basis for recommending new and/or alternative approaches and implementations as discussed in the next chapter.

Chapter seven considers the implications of the results obtained from the practical research project. Recommendations for future implementation and improvement of the system are made. Decisions regarding these were taken within the context of the information gathered in the literature survey, from the research that was conducted, and from other relevant sources of information.

Chapter eight concludes the study and provides a glimpse of the future challenges that are faced in the implementation of legal deposit in South Africa.

## 2 Legal deposit legislation

### 2.1 *Introduction*

The institution of legal deposit goes back many centuries, with some of the first laws recorded in countries in Europe as early as the 1500s and 1600s (Jasion, 1991; Lariviere, 2000; Lor, 1995: 94). Although the concept and its statutory arrangements have undergone many changes over time, with only a few exceptions, legal deposit is currently governed by some form of national legislation in countries all over the world. Guidelines for the establishment of national legal deposit legislation have also been developed in the last few decades. One of the first influential works in this arena was that of Jean Lunn (Lunn, 1981). A new and enlarged edition of Lunn's work was compiled by Lariviere in 2000 (Lariviere, 2000) and is currently accepted as the benchmark for guidelines and recommendations in this field. Lariviere's work discusses a wide range of jurisdictions covering all aspects of legal deposit, and incorporates new forms of publishing such as electronic publications, with the aim of assisting countries in the development and implementation of new legal deposit legislation or the revision of legislation already in place. Observance to these guidelines is advocated to all countries. In 2004 an investigation by Bazan (2004) which aimed to get to know the general characteristics of different national legal deposit legislations, as well as the extent to which these legislations comply with the previously mentioned international guidelines indicated that South African legislation is "highly tailored to meet the... recommendations" (Bazan, 2004).

This chapter aims to provide an overall picture of legal deposit legislation and the issues contained in legislation as they pertain specifically to South



Africa. Considering the results of Bazan's study, the content and quality of current South African legislation are not debated, but the discussion will concentrate on the elements that provide the needed background against which this study investigates the state of legal deposit and its implementation in South Africa. The concept and purpose of legal deposit has been covered extensively in the literature, as will be demonstrated throughout this study. This chapter therefore commences with only a short summary of the underlying principles and the development of legal deposit before proceeding to the main focus of the discussion, namely the issues covered by legislation. To provide a balanced view of these legislative issues a comparative study of legal deposit legislation in the United Kingdom, Australia, Malaysia and South Africa is undertaken.

Great Britain was one of the first countries to establish legal deposit in the 1600s. In the subsequent centuries a "typical imperialist pattern" (Lor & Geustyn, 2001) was followed according to which the British Copyright Act, incorporating legal deposit requisites, was made applicable to all countries and territories comprising the British Empire (Partridge, 1938: 80; Lor & Geustyn, 2001; Willemse, 1962: 78). These territories included, at some time or another, South Africa, Australia and Malaysia. It was thus a natural decision to use the United Kingdom as one of the countries for comparison in the study. Australia was chosen as a developed country in the southern hemisphere with many historical characteristics resembling those of South Africa. South Africa has a foot in the developed as well as the developing world, so Malaysia, as a less developed, but upcoming, country in the Asia Pacific region was chosen to balance the comparison.

## 2.2 *Background to legal deposit*

### 2.2.1 **What is legal deposit?**

For the purposes of this research project which aims to investigate the practical implementation of legal deposit, compliance with legislation and other related issues surrounding the subject, a conceptual point of view had to be found that expresses what legal deposit entails, clearly and adequately enough to be used throughout the research project. Many different authors and institutions have provided various descriptions and interpretations of legal deposit and its functions over the years from which certain core elements relevant to the nature and role of legal deposit can be derived. The four principles that serve as the basic premises for this study are the following:

#### 2.2.1.1 *The statutory/legal nature of the legal deposit arrangement*

Lariviere in his comprehensive guide to legal deposit describes legal deposit as being a “statutory obligation” and stresses the fact that a legal deposit scheme should preferably rest on specific legislation in order to ensure compliance (Lariviere, 2000). Although legal deposit is not always “legal” in the sense of being enforced by a specific law in a country (Lor, 1995: 95), it is nonetheless a statutory obligation in most countries where it is implemented on national level. This principle thus serves as the main point of departure for this research project.

#### 2.2.1.2 *The preservation function of the legal deposit system*

Legal deposit ensures the acquisition of all published materials emanating from and relating to a country, and the preservation of this material is its logical outcome (Hamburg, 2002: 82; Lor, 1997). The aim of preservation is

formulated in many ways, as when Partridge (1938: 6) proclaims that it “...acts as a mirror wherein all the glory of a nation’s literature is faithfully reflected”, to Muir’s more prosaic “... to ensure the preservation of and access to a nation’s intellectual and cultural heritage over time” (Muir, 2001: 652). National cultural identity depends to a great extent on the survival of cultural material, and legal deposit is regarded as the main instrument for building up and preserving national collections of a heritage nature (Council of Europe/EBLIDA, 1998). The preservation function is the most widely acclaimed objective of legal deposit and presumably the primary focus of legal deposit institutions (Cline, 2002: 15; Jasion, 1991: 7; Lariviere, 2000; Rugaas, 1990: 41).

### **2.2.1.3 *Recording the information/creating bibliographies***

The acquisition of published material by way of legal deposit is intended to serve as the essential foundation for recording in the form of a comprehensive national bibliography everything that a country produces (Jasion, 1991: 7; Lariviere, 2000; Lor, 1995: 97). National bibliographies give timely information about national publishing, serve as a reference for acquisitions, and offer records that can be re-used in local and international catalogues and directories (Beaudiquez, 2002: 1). If the recorded information is to be effectively shared in this way, it is essential that widely accepted standards are used in compiling the bibliographies, resulting in world-wide bibliographic control (Haddad, 1999). Legal deposit and the subsequent creation of a national bibliography thus ensure compliance with the international IFLA/UNESCO commitment to Universal Bibliographic Control (UBC)<sup>1</sup> (Lariviere, 2000; Lor & Cillie, 1997: 4).

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<sup>1</sup> The UBC programme originated under the auspices of IFLA (International Federation of Library Associations). The aim of the programme was to encourage countries to follow an international standard for bibliographic description of publications.

#### **2.2.1.4 Access to and availability of deposited material**

An effective legal deposit system ensures access to a country's published material to local and international researchers and citizens (Lariviere, 2000). This access can be provided via shared online cataloguing systems or other national and international networks, and is regarded as a prerequisite of a legal deposit programme and a guaranteed right (Council of Europe/EBLIDA, 1998; Jasion, 1991: 16; Lariviere, 2000; Lor, 1995: 86). Providing access to a publication through loan or copies to any scholar anywhere in the world constitutes observance to another UNESCO/IFLA commitment namely the Universal Availability of Publications (UAP)<sup>2</sup> (Lariviere, 2000; Lor & Cillie, 1997: 4). Legal deposit is not only the foundation on which UAP rests, but also serves as one of the pillars of freedom of expression and various national law ensuring freedom of information (Lariviere, 2000; Lor, 1995: 96).

#### **2.2.2 Origin of legal deposit**

It is generally acknowledged that the principle of the legal deposit of books originated in France under the French king, Francis 1, who was an advocate of learning and the arts (Crews, 1988: 553), and owned an impressive library. It was "from his kingly pride in the literary works of his time" (Partridge, 1938: 2) that the system of legal deposit of books was born. The Montpellier Ordinance of 28 December 1537 decreed that before the sale of any new book, a copy, irrespective of author, subject, cost, size, date or language, had to be sent to the Royal Library at Blois (Crews, 1988: 553; Lariviere, 2000).

Before long other countries followed this example. Legal deposit was established in Great Britain in 1610 when Sir Thomas Bodley made an

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<sup>2</sup> The UAP programme aimed at providing the widest possible availability of published material whenever it was needed and in the format it was preferred.

agreement with the Guild of Stationers, in whose hands the printing, publishing and selling of books lay, whereby the library at Oxford University was to receive free copies of all new books produced by members of the guild (Byford, 2002: 292; Jasion, 1991; Partridge, 1938: 1). Similarly many other European countries also have a long and early history of legal deposit. The Germanic emperor, Ferdinand 11, required in 1624 that one copy of each book published be sent to the library of his court (Lariviere, 2000). The first recorded law relating to legal deposit in Poland was issued in 1645 in the city of Gdansk (Jasion, 1991: 160) and legal deposit systems have been in place in Sweden since 1661, in Denmark since 1697 and in Finland since 1702 (Lariviere, 2000), to mention but a few.

The more recent growth of the legal deposit concept throughout the world is reflected in two twentieth-century surveys. In 1938 the *Institut international de cooperation intellectuelle* in Paris identified 52 countries that had legal deposit systems in place (Lariviere, 2000), and in 1991 Jasion provided a list of 139 countries with statutory legal deposit libraries (Jasion, 1991). Although information regarding the current state of affairs is not readily available, legal deposit has been employed in most countries in the world for at least a century (Caslon Analytics, 2004) and is presently attracting much attention in the literature and in practice, especially with the advent of new technologies and the associated issues and problems surrounding the deposit of electronic publications.

### **2.2.3 Evolvement of legal deposit**

Whilst Francis 1 was the first to implement a system of deposit with the ultimate aim of collecting and preserving material for future generations, his original idea has evolved over the centuries to include various other

objectives and purposes that justify the legalised national acquisition of books.

### **2.2.3.1 *Legal deposit and censorship***

One of the earliest of these motives was censorship. Legal deposit became inseparably linked with censorship in the early days of printing when lawmakers saw in such depositing an effective means of curbing the printing of blasphemous and seditious literature and thus the spreading of heretic and revolutionary ideas (Lariviere, 2000; Rugaas, 1990: 41; Willemse, 1962: 4). A 1661 Swedish edict for example, stated that "...it seems appropriate... that His Majesty should be informed of all the books and the writings printed in his kingdom" (Crews, 1988: 553), and censorship and supervision were aspects that remained part of legislation in Finland for a long time (Lariviere, 2000). In France Napoleon revised the law in 1810, directing deposits for a time to the ministry of police, so that surveillance of the press was made easier (Crews, 1988: 554). The universities of Oxford and Cambridge were originally chosen as centres for legal deposit in England not only because of their status, but also because they were under the control of the church and so suited to censorship procedures; however, censorship did not sit well with the British and was finally abolished in 1695 (Willemse, 1962: 14).

### **2.2.3.2 *Obtaining trade privileges***

At the time of the invention of the printing press there was no legislation in place that protected intellectual property. Printers (who were then also publishers) often reprinted existing books as a cheaper product, which resulted in considerable financial loss to both the author and the original printer (Willemse, 1962: 14). Printers thus began to negotiate with the ruler of the state, presenting him with a free copy of the publication in exchange for the sole rights of publishing the product for a certain period

in a specific area. In 1617 for example, this form of deposit became an official prerequisite for obtaining such trade privileges in France (Crews, 1988: 554; Willemse, 1962: 15).

### 2.2.3.3 *Copyright privileges*

The principle of obtaining approval for the act of rewriting/copying a document was already in place at the time when manuscripts were still being written by hand, and permission was often granted on the condition that an additional copy was made for the original owner of the manuscript. The invention of printing in 1450, however, made the multiplication of copies simpler and thus threatened the existing business of reproduction (Rugaas, 1990: 41; Willemse, 1962: 5). For some time the concept of legal deposit was closely linked with copyright (Ratcliffe, 1999: 77). In Great Britain the Statute of Anne, the Copyright Act of 1709, became the first law that dealt with protecting authors from the piracy of their works. This law required that nine copies of works be distributed to various libraries in order to obtain copyright (Lariviere, 2000). The United States Congress established legal deposit in the Copyright Act of 1790, requiring that all copyrighted materials be deposited at the Department of State (Crews, 1988: 555). In France legal deposit was abolished in the name of liberty, but was reinstated in 1793 as a formality to obtain copyright (Lariviere, 2000). The Berne (copyright) Convention, however, clearly stated that deposit formalities could not be a requirement for copyright, and after the convention's implementation in 1886 most countries modified their legal deposit systems, maintaining legal deposit, but not as a copyright formality (Lariviere, 2000; Lor, 1995: 95).

### 2.2.3.4 *From personal enrichment to national importance*

The practice of obtaining books by way of legal deposit served for quite a period of time as a means for the ruler of a country to enrich his own

library or a library that he wished to support (Lor, 1995: 95). There was, however, always an underlying assumption that the rulers were also obtaining publications with the aim of preserving the national cultural heritage (Partridge, 1938: 13). As the elements of censorship, privilege and copyright disappeared over time, legal deposit gradually became a more independent practice serving more purely library-related purposes. With new objectives such as establishing a national bibliography, and ensuring the availability of the collection for research purposes appearing during the twentieth century (Lariviere, 2000), legal deposit has evolved to a point where the aim is not to provide “rulers” or libraries with free copies of publications for whatever reasons, but “to collect, store and make available for the present and the future the sum total of the intellectual and cultural heritage of a country” (Rugaas, 1990: 42).

## ***2.3 Legislation***

### **2.3.1 Introduction**

Most countries where legal deposit systems are implemented have legislation that deals with the issue, but there are some exceptions. Switzerland, for example, has a different, non-statutory arrangement. After the Swiss National Library was founded in 1894, Swiss publishers approved of the purpose of a national library but were wary of the censorship potential that legal deposit entailed and therefore agreed to a voluntary deposit arrangement (Crews, 1988: 567; Lariviere, 2000). The Netherlands also has no legal deposit system; rather, deposits are carried out on the basis of a voluntary agreement between the *Koninklijke Bibliotheek* and publishers (Lariviere, 2000; Voorbij & Douma, 1997: 155). Although it is accepted that voluntary deposit schemes should not be discouraged if they achieve the same results, the general consensus is that countries should have laws to control legal deposit so as to compel



producers to deposit their publications and ensure comprehensive, non-fragmented collections (Council of Europe/EBLIDA, 1998; Davies, 1998: 165; Lariviere, 2000; Lor & Cillie, 1997: 6).

Legal deposit legislation and the manner in which it is implemented and managed varies from country to country, depending on the legal systems in place and the publishing environment and traditions of the specific country. Legal deposit can be any of the following (Caslon Analytics, 2004; Jasion, 1991: 8; Lariviere, 2000):

- A specific stand-alone legal deposit act: examples of countries with such acts are Belgium, France, Iran, Latvia, South Africa, and Sweden.
- Part of another law, library regulations, or part of a national library act: as in Canada, Japan, Nigeria.
- Part of copyright legislation: for example Australia at federal level, the United States, and New Zealand.
- A government decree or other statutory order on national as well as municipal level: as in the Ivory Coast, Lithuania, and the Philippines.
- An administrative decree instead of a distinct statute or regulation: as in Chile and Cuba.
- Or various other regulations, circulars, rules and policy statements.

It is recommended that a legal deposit scheme should be established at a national level as a national responsibility (Lariviere, 2000). However, where legislative powers are shared by various levels of government, legal deposit can be carried out on both national and regional level.

Canada for example has national and provincial laws and Germany has national and federal laws. Other good examples of countries with a federal structure with more than one law related to legal deposit are Australia, India and the United States of America (Lariviere, 2000; Muir, 2001: 653).

To provide a background for a comparative discussion of issues contained in legal deposit legislation in the rest of the chapter, a short overview of the relevant laws in the United Kingdom, Australia, Malaysia and South Africa is given below.

### **2.3.2 Legal deposit in the United Kingdom**

As mentioned in section 2.2.2, legal deposit had its origin in the United Kingdom in 1610 when Sir Thomas Bodley made an arrangement with the Stationers' Guild whereby they would put a copy of every book registered with them in the library of the University of Oxford, now known as the Bodleian library. By 1662 printers were obliged to deposit copies of books with the libraries of Oxford and Cambridge and with the Royal Library (later named the British Museum, now the British Library). Formal arrangements for the deposit of books were contained in the first Copyright Act of 1709, which included a fourth library, the Advocates' Library in Edinburgh, now the National Library of Scotland. Trinity College in Dublin joined in 1801 and The National Library of Wales was included in 1911 (Cambridge University Library, 2004). According to the 1911 Copyright Act publishers were required to provide a copy of every publication published in the United Kingdom to the British library and to each of the five other designated deposit libraries.

In 1996 the British Library started seeking ways of extending legal deposit to non-print material. This resulted in a 1998 report by a Working Party on Legal Deposit. The report recommends the development of a code of practice for the voluntary deposit of electronic materials to the deposit libraries, the British Film Institute and other repositories as an interim measure, and suggests that statutory deposit will be necessary in the long term (Byford, 2002: 295; British Library, 1998). Legal deposit was formally extended to other media formats including off-line electronic information in the Legal Deposit Libraries Act of 2003, which came into effect in 2004 and supersedes the Copyright Act of 1911. As the British Library is currently reviewing its processes for acquiring categories of materials not covered by previous legislation, the deposit of electronic publication continues under the terms of the voluntary code of practice as an interim arrangement (British Library, 2005b).

The Agency for the Legal Deposit Libraries is maintained by five libraries to make requests and accept legal deposit publications on their behalf (Agency for the ..., 2004). Publishers must submit one copy of each of their publications directly to the British Library, but the Agency claims copies on behalf of the other five deposit libraries within twelve months of the date of publication. These publications are distributed to the libraries by the Agency.

### **2.3.3 Legal deposit in Australia**

On federal level, legal deposit in Australia is contained in Section 201 of the Commonwealth of Australia Copyright Act 1968, according to which one copy of all printed material published in Australia must be delivered to the National Library of Australia (Muir & Oppenheim, 2002; National Library of Australia, 2004). The National Library has for many years been

urging reforms to legislation in order to keep up-to-date with trends in electronic publishing (Haddad, 1999). In 1995 the National Library together with the National Film and Sound Archive made a joint submission to the Copyright Law Review Commission recommending *inter alia* that legal deposit be extended to include all electronic formats (National Library of Australia, 1995). Although the 1968 Copyright Act was updated by the 2000 Digital Agenda Act, the legal deposit provisions contained in the 1968 Act were not altered. In the interim the National Library has implemented a voluntary scheme for electronic publications (Caslon Analytics, 2004; National Library of Australia, 2004).

Australia has legal deposit provision at both federal and state level. Publishers are expected to comply with federal law and deposit copies of their material to the National Library, and with the various legislative prerequisites at state level.

- In New South Wales legal deposit is required under the New South Wales Copyright Act of 1879, sections 5-7. The type of material that is to be deposited is very similar to that stipulated at federal level. (Muir & Oppenheim, 2002; National Library of Australia, 2004).
- Statutory provisions were only very recently introduced in the Northern Territory with the passing of the Publications (Legal Deposit) Bill 2004 in the Northern Territory Legislative Assembly on 25 August 2004. The Act was to commence on 1 March 2005 (Northern Territory, 2004).
- In Queensland under the Queensland Libraries Act 1988, South Australia under section 35 of the South Australian Libraries Act 1982, and Tasmania under section 22 of the Tasmanian Libraries Act 1984, the scope of material to be deposited is much wider than that on

federal level, covering all types of non-print material. The Tasmanian Act has been interpreted as covering physical format electronic publications and web pages (Caslon Analytics, 2004; Muir & Oppenheim, 2002; National Library of Australia, 2004).

- In Victoria, section 49 of the Victorian Libraries Act 1988 covers a wide range of material, but excludes online material (Caslon Analytics, 2004); Muir & Oppenheim, 2002).
- Legal deposit was required under the Western Australia Copyright Act 1895 sections 4, 7-9 for that territory, but this act was repealed in 1994. Replacement legislation is currently before parliament. In the meanwhile a voluntary scheme of legal deposit is operating (National Library of Australia, 2004).

#### **2.3.4 Legal deposit in Malaysia**

Malaysia consists of Peninsular Malaysia on the south eastern tip of Asia plus the regions of Sabah and Sarawak on the north coast of the island of Borneo. It consists of 13 states and three federal territories (World Almanac and Book of Facts, 2004: 807). The Legal Deposit of Library Material Act 1986 which replaced the Preservation of Book Act, 1966, requires all publishers to deposit five copies of all print materials and two copies of all non-print material published in Malaysia to the National Library of Malaysia i.e. Perpustakaan Negara Malaysia (Malaysia, 1986). Although the wording of the Act does not specifically mention electronic publications, it is assumed in principle that all publications, including electronic publications of all types, are subject to deposit (Shahrozat & Edzan, 2004: 70). At state level state public libraries are concerned with building up and maintaining collections relating to the particular

individual states (APRCCN, 1998). With regard to legal deposit specifically, the State of Sarawak for example has a legal deposit system in place as stipulated under the Sarawak State Library Ordinance, 1999, according to which publishers are obliged to deposit three copies of their publications at the State Library, Pustaka Negeri Sarawak, and two copies to the regional libraries of Miri and Sibiu. Information with regard to legal deposit legislation or arrangements in other Malaysian states is not readily available.

### **2.3.5 Legal deposit in South Africa**

Legal deposit was introduced in South Africa in 1842 when the British Copyright Act was made applicable to the whole British Empire, according to which a copy of each book published in a colony was to be deposited with the British Museum (Lor & Geustyn, 2001; Willemse, 1962: 78). It was only later in the nineteenth century that libraries in South Africa were designated as deposit libraries: In the Cape, the Public Library in Cape Town and the Grahamstown Public Library according to Act no. 2 of 1873; in Natal according to the Copyright Act no. 9 of 1896 superseded by Act no. 17 of 1897, which stipulated that two copies of various types of material were to be delivered to the Colonial Secretary; and in Transvaal where a law was passed wherein article 22 of the Act or the Regulation of Copyright of 1887 made provision for the deposit of works to the Registrar of the *Volksraad van de Zuid-Afrikaansche Republiek* (Partridge, 1938: 188; Willemse, 1962: 81-92). After the Union of South Africa came about in 1910 the four provinces were placed on an equal footing with the Patents, Designs, Trade Marks and Copyright Act (Act 9 of 1916). Grahamstown lost its legal deposit right, and in 1950 the Copyright Amendment Act (Act 22 of 1950) stipulated that publishers had to deposit an additional copy of their work to the Library of Parliament (Lor &

Geustyn, 2001; Willemse, 1962: 95-100). After the establishment of the Republic of South Africa in 1961 legal deposit entered a new dispensation with section 46 of the Copyright Act (Act 63 of 1965), and the provision of copies of publications to the British Museum was officially discontinued (Lor & Geustyn, 2001; Lor & Cillie, 1997: 4). After further evolution the Legal Deposit of Publications Act, 1982 (Act No. 17 of 1982) was passed.

Revision of the Legal Deposit of Publications Act of 1982 became imperative with the new developments on the local political front i.e. the establishment of a new democratic government in 1994, and the growing importance globally and nationally of audio-visual and electronic media (Lor & Cillie, 1997: 8). After an Information Seminar hosted by the (former) Department of Arts, Culture, Science and Technology<sup>3</sup> in conjunction with the Committee of Legal Deposit Libraries in 1996, and the drafting of a Revised Legal Deposit Bill, new legislation came into being with the proclamation of the Legal Deposit Act, 1997 (Act no. 54 of 1997) which commenced on 1<sup>st</sup> July 1998.

The new Legal Deposit Act of 1997 makes provision for the constitution of a Legal Deposit Committee to oversee the implementation of the new Act. This committee consists of a broad spectrum of role players namely: heads of places of deposit, head of the Government Printing Works, one representative from each of the provincial official publications depositories, two representatives of the publishing industry, and no more than four additional members appointed by the Minister to represent other interested parties, including representatives of library and information services (Report on the first meeting..., 1999: 10; South Africa, 1997).

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<sup>3</sup> The Department of Arts, Culture Science and Technology (DACST) divided into two separate departments, the Department of Arts and Culture (DAC) and the Department of Science and Technology ( DST) on 1 August 2002.

## ***2.4 Issues covered in legal deposit legislation***

### **2.4.1 Introduction**

Many different approaches are taken to legal deposit legislation, and the various aspects and issues contained in this legislation differ from country to country. However, there are certain core issues that should ideally be dealt with in all legal deposit legislation. The most recent recommendations regarding the procedures and components for effective national legal deposit systems are provided by Lariviere (2000). The following section provides an overview of the various recommended issues with specific reference to the legal deposit legislation of the four countries selected for discussion.

### **2.4.2 Objectives of legal deposit**

In a worldwide survey of legal deposit conducted by Jasion in 1991, it was found that very few laws actually state what the purpose of legal deposit is (Jasion, 1991: 6). However, in his *Guidelines for legal deposit legislation* Lariviere insists that the three main objectives of legal deposit, namely preservation, (bibliographic) control, and access, should be clearly expressed in legislation to avoid situations where legal deposit institutions may prioritise one objective over another (Lariviere, 2000).

British legislation merely states that the Legal Deposit Libraries Act makes “provision about the use and preservation of material deposited, and for connected purposes” (United Kingdom, 2003), and Australian legal deposit is regarded as fulfilling part of its “national documentary heritage role” (National Library of Australia, 2002). Malaysian legislation expands



more and covers all three of the objectives specifying that the law makes provision “for the collection, conservation, bibliographic control and use of library material published in Malaysia and to provide for matters connected therewith” (Malaysia, 1986).

According to Muir and Oppenheim (2002) South Africa’s Legal Deposit Act is one of the few pieces of such legislation in the world that actually fully sets out the purpose of legal deposit:

To provide for the preservation of the national documentary heritage through legal deposit of published material; to ensure the preservation and cataloguing of, and access to, published documents emanating from, or adapted for, South Africa; to provide access to government information; to provide a Legal Deposit Committee; and to provide for matters connecting therewith (South Africa, 1997).

### **2.4.3 Origin of the publication**

Lariviere regards it as essential that the origin of a publication subject to legal deposit be described in a country’s legislation. He substantiates this argument by pointing out that, as national law cannot be implemented on an extraterritorial basis, a legal deposit law can only apply within the boundaries of a country. Any country that therefore wishes to receive copies of publications from its residents publishing abroad should specify this in its legislation (Lariviere, 2000).

In the United Kingdom, under the new Act of 2003 (United Kingdom, 2003) all items published and distributed in the United Kingdom and Ireland are liable for deposit, as are items published elsewhere but distributed in the United Kingdom and Ireland irrespective of place of publication or printing, the nature and size of imprint, or the extent of

distribution (British Library, 2005b). A comprehensive definition of Australian printed matter is provided by the National Library of Australia where Australian printed materials are defined as

“items published in Australia and its territories, items of Australian authorship (whether author was born in Australia, is a temporary resident of Australia, or is an expatriate but is considered to be Australian), and items relating to Australia and its territories, including material produced overseas of which the subject is wholly or substantially Australian” (National Library of Australia, 2002).

In Malaysia Section 3 of the Deposit of Library Act of Malaysia only defines the duties of the National Depository with regard to “material published in Malaysia” (Malaysia, 1986). South African legislation also quite brusquely refers to documents “emanating from, or adapted for, South Africa” (South Africa, 1997).

#### **2.4.4 Places of deposit**

It is often assumed that the national library in a country is the only designated institution for receipt of legal deposit material. This is, however, not necessarily the case, as other types of libraries such as university libraries, private libraries, libraries of parliament, national archives, and other institutions within provincial or state jurisdiction may also be chosen as depositories (Jasion, 1991: 12; Lor, 1995: 99). This diversity is to some extent demonstrated in the examples discussed below.

In the United Kingdom, the British Library and five other libraries namely the Bodleian Library of Oxford University, the University Library of Cambridge, the National Library of Scotland, the National Library of Wales, and the Library of Trinity College in Dublin all receive legal deposit material.

In Australia, copies of material must be delivered to the National Library of Australia as well to the appropriate state library namely the State Library of New South Wales, the Northern Territory Library, the State Library of Queensland, the State Library of South Australia, the State Library of Tasmania, the State Library of Victoria, and the Library and Information Services of Western Australia respectively.

The National Library of Malaysia, which was only established in 1972 (Wijasuriya, 1998: 62), is the national depository for all materials published in Malaysia. The Act makes no specific mention of deposit requirements in any of the other states or territories in the country, but in Sarawak local legislation designates the State Library as a state depository for materials published in Sarawak. Copies of these publications are also sent for preservation to the two regional public libraries in Miri and Sibul (Pustaka Negeri Sarawak, 2005).

In South Africa five libraries are designated as repositories for the depositing of books. They are the National Library of South Africa (Pretoria Campus and Cape Town Campus), Manguang Library Services (Bloemfontein Public Library), Msunduzi Municipal Library (Natal Society Library Pietermaritzburg), and the Library of Parliament in Cape Town. Other places of legal deposit are the National Film, Video and Sound Archives in Pretoria for the depositing of certain categories of non-print documents, as well as one place of legal deposit in each of the nine provinces to serve as an Official Publications Depository.

#### **2.4.5 Number of copies to be deposited**

In general, it is recommended that legislation should ensure that the number of printed copies of documents delivered as legal deposit is more

than one. Lariviere suggest a minimum of two copies (Lariviere, 2000). Other guidelines advise that the number should be kept to a “reasonable level, ranging from three to five... according to national needs” (Council of Europe/EBLIDA, 1998). The rationale behind the requirement of more than one copy is because multiple copies not only strengthen a library’s exchange resources, but as material is liable to wear and tear one copy can be kept for preservation purposes and the other(s) for research use (Crews 1988: 583; Jasion, 1991: 12; Lariviere, 2000). Legislation regarding the number of copies that have to be deposited varies considerably. Some countries have strict requirements and in others the law allows places of deposit to choose how many copies they need.

In the United Kingdom, one mandatory copy of a publication must be sent to the British Library and further copies sent to the other five libraries if this is requested in writing within a year of the day of publication. Thus the possible total of six copies. The same basic prerequisites apply to non-print publications, but provision is made in the Act for supplementary regulations where the need may arise (United Kingdom, 2003).

Australia requires the depositing of two copies of all publications; one copy of a work has to be delivered to the National Library and one to the appropriate State Library. In New South Wales, Queensland and South Australia legislation also applies to other libraries designated in the particular state, and a copy must also be deposited with these libraries (National Library of Australia, 2004).

In Malaysia, five copies of printed material and two copies of non-print material has to be deposited in the National Library (Malaysia, 1986).

In South Africa, publishers are expected to deposit one copy of a publication with each of the five legal deposit libraries. Official

publications depositories receive one copy of every official publication in the province that they are situated, but no copies of any other categories of documents. The National Film, Video and Sound Archives, with the assistance of the other places of legal deposit, is mandated to preserve at least one copy of designated audio-visual material (South Africa, 1997).

#### **2.4.6 Costs**

The costs of depositing material subject to legal deposit is generally borne by the publishers. Lariviere (2000) regards this free deposit as a matter of principle since the objectives of legal deposit are to serve the public interest. Publishers, however, are often critical of this practice, especially those with smaller print runs (Caslon Analytics, 2004). On national library level the issue is also discussed. At a “round robin” on legal deposit at a meeting of the Standing Committee of the IFLA National Libraries Section, the question of compensation to publishers for legal deposit was raised (IFLA, 2004). In some cases, the state does provide relief, but Lariviere (2000) advises that compensation systems should not form part of legal deposit legislation, but should rather be dealt with according to each situation, depending on the financial circumstances of the legal deposit institution.

In all four of the countries studied, publishers are expected to deliver legal deposit material at their own expense. The revised act of 1986 in Malaysia does include compensation for costly print items and also makes provision for payment for non-print material if such payment is demanded by the publisher (Malaysia, 1986). The South African Legal Deposit Act clearly states that all costs of the supply and furnishing of the documents and the information pertaining to the documents are to be borne by the publisher (South Africa, 1997).

#### **2.4.7 When / how soon after publication should material be deposited?**

The timing of the submission of documents varies from country to country and can influence publishers' compliance with legislation and the possible actions taken to enforce the depositing of material.

In the United Kingdom, printed publications have to be deposited within one month of publication to the British Library. Publications that are requested by the other five libraries must be provided within one month of the receipt of the request (British Library, 2005b). Australian publishers are also expected to deposit within one month of publication, with the exception of New South Wales and Western Australia which require that books be deposited within two months of publication (National Library of Australia, 2004). Print material in Malaysia has to be deposited within one month of publication and also non-printed library material if written request is made within one year of their publication (Malaysia, 1986). South African legislation expects publishers to dispatch a document within 14 days of the day on which the document is published (South Africa, 1997).

#### **2.4.8 Who should deposit?**

In most countries with a legal deposit system in place, the publisher as the producer of the publication is held responsible for depositing material. However, in countries such as France and Algeria for example, both the printer and the publisher must deposit. In the United States the copyright owner, in many cases the author, is held responsible for depositing (Crews, 1988: 560; Jasion, 1991: 8). It is thus important that terms such as "publisher" or "producer" be defined broadly enough so that commercial,

private or smaller and occasional publishers, as well as producers of non-print material (including tangible and non-tangible electronic material) are included in the legislation (Lariviere, 2000; Lor, 1995: 99).

According to legislation in the United Kingdom, the duty of depositing is placed on the publisher, i.e. anyone who publishes and distributes publications to the public in the United Kingdom (British Library, 2005b). In Australia, the sole responsibility for legal deposit lies with the publisher, whether a commercial publisher, private individual, club, church, society, or organization (National Library of Australia, 2004). The Malaysian Act regards publishers as responsible for depositing, but the Act does not expound on the meaning or interpretation of the term “publisher” (Malaysia, 1986).

In South Africa, the publisher of a document is responsible for depositing those materials subject to legal deposit. The Act describes the term “publisher” as covering any public or private person or body who

- publishes and distributes a document,
- bears the financial risk of the production of a document which is intended to be generally available, or
- imports a document produced abroad for a South African publisher or document adapted for the South African market to make it generally available (South Africa, 1997).

## **2.4.9 Type and scope of material that must be deposited**

### **2.4.9.1 *General types of material***

The importance of legal deposit legislation in ensuring that, apart from books, the deposit of all kind of published material such as iconoclastic material, maps, music scores, audiovisual and electronic documents, for

example is covered cannot be underestimated (Lariviere, 2000). However, the question as to how such resolutions are to be implemented is not always very easy to answer. A number of aspects need to be taken into consideration.

- One of the first is the question of terminology. Definitions can be critical to the interpretation of an act regarding categories of materials that are subject to legal deposit (Lor, 1995: 99). Most of the more commonly used terms identified with legal deposit material such as “book”, “publication”, “printed matter” and “library material” are based on the concept of print/textual material (Muir, 2001: 655). With many new developments especially on the technological front, it has become imperative that legal deposit legislation cover all types of published material regardless of the format or means by which this material becomes available (Lariviere, 2000; Lor & Cillie, 1997: 7).
- The term ‘publication’ should furthermore be defined not only to cover any format in which something is issued, but also to ensure that information is made generally available. The requirement of the general availability of material to the public whether for sale, hire, or for free is of major importance when drafting legal deposit legislation (Muir, 2001: 653; Lor & Cillie, 1997: 5).
- Comprehensiveness and exhaustiveness are two other important issues in legislation concerning the scope and/or types of documents subject to legal deposit. Libraries are just not able to cope with rapidly increasing collections resulting from the information explosion, and it is therefore suggested that various situational realities should be taken into consideration when drafting legal deposit legislation (Smethurst, 1992: 34). It is recommended that material to be excluded should be clearly stated in the legislation and all else should be included.



Legislation in most countries does in fact specify the type(s) of material that the individual deposit institutions want to collect, depending on specific needs and circumstances. This can depend on a number of factors. Size of print run, confidentiality, availability to the public, changes in the text in further editions, and nationality of content, publisher or author (Jasion, 1991: 11) are some aspects that are taken into consideration. The Council of Europe/EBLIDA (1998) suggests that deluxe or valuable publications should be deposited in a limited number of copies and Davies (1998: 165) believes that consideration must be given to the specific difficulties involved in providing specialist types of material. Considering the ever-increasing number and range of information carriers, deciding what material will be of lasting cultural and research value is thus important (Muir, 2001: 658).

In the United Kingdom under the Copyright Act of 1911, a publication is simply defined as anything which is issued to the public; where or by whom these copies are published, is not relevant (Eden et al., 1999: 273). Before the drafting of new legislation, a study on the definition of terms to help with the structuring and wording of the new legislation was commissioned by the British Library. These definitions were to be “format or medium-independent to make them ‘future-proof’” (Muir, 2001: 656). This is reflected in the new Act of 2003 which refers to print material, specifies what this includes, and provides for publications made available by non-print means (United Kingdom, 2003). The Act also allows for individual libraries to decide on which material to exempt from legal deposit. Exemptions made by the British Library include internal reports, examination papers, local transport timetables, appointment diaries, wall and desk calendars and posters (British Library, 2005b). A few categories of material are deliberately not claimed by the library at Cambridge, such as books in large print (Cambridge University Library, 2004). The libraries of Scotland and Wales give priority to publications about Wales and Celtic

countries (National Library of Wales, 2005) and the National Library of Scotland particularly emphasizes the building and maintaining of collections of material published in or relating to Scotland or the Scots on any subject (National Library of Scotland, 2005).

In Australia, a work is assumed to have been published if reproductions of the work or edition have been made available (whether by sale or otherwise) to the public (National Library of Australia, 2004). The term “library material” that was used under the Copyright Act limited deposit requirement to items in a printed form (books, periodicals, newspapers, pamphlets, sheet music and maps) but it is foreseen that the definition of a publication in the revised Copyright Act will be extended to include the concept of publication by transmission (Gatenby, 2002; National Library of Australia, 1995). Some states have already extended their individual legislation to collect a wider range of materials than allowed for by the current commonwealth legislation (National Library of Australia, 1995). Published Australian materials in all languages are collected and material relating to Aboriginal and Torres Strait Islanders are actively sought in order to reflect Australia’s cultural diversity (National Library of Australia, 2002).

Malaysian legal deposit legislation defines “published” as material which has been produced and made available to the public whether at a price or free of charge. Legislation requires the “best copy of the whole material that is published” to be deposited, and a broad description is given of what this encompasses. The best copy principle also applies to non-print material. New editions of material are also covered in the legislation. The term “library material” is used in the Malaysian Act of 1986, and to prevent ambiguity a comprehensive description of what the term entails is provided. Both print and non-print media are included in the definition of “any form of printed, graphic, audio, electronic or other media, on or in

which information is written, recorded, stored, displayed or produced and categorized” (Malaysia, 1986). No guidelines are provided in the event of a library’s wishing to exempt a publisher from delivering a publication. Section 6, however, makes provision for the disposal of material as authorised by the Director General, provided that a copy is preserved in either original or other practical format (Malaysia, 1986).

The South African Legal Deposit Act of 1997 regards published to mean

“... produced to be generally available in multiple copies or locations to

- any member of the public, whether through purchase, hire, loan, subscription, licence or free distribution; or
- the members of an association or a society, the membership of which is open to any qualifying member of the public” (South Africa, 1997).

The new terminology used in the Act is based on the Norwegian model and does not differentiate between the types of publication subject to legal deposit but provides generic definitions for the terms “document”, “medium” and “published” instead (Lor & Geustyn, 2001). The term “book” used in previous legislation, for example, has in the new Act been replaced by “document”. Document means any object that is intended to store or convey information in a variety of formats (textual, graphic, visual, auditory or other intelligible format) through any medium (i.e. any means of recording or transmitting information intended for reading, listening or viewing) (South Africa, 1997).

The Legal Deposit Act in South Africa also makes provision for individual legal deposit libraries, on recommendation of the Legal Deposit Committee, to grant exemption for particular types of document they do not require, or for publishers to be exempted from supplying documents or granted financial relief under certain circumstances such as “serious financial or other hardship” (South Africa, 1997). In the Regulations

explaining the Act specific information is given concerning exemptions. For example the number of copies to be supplied if less than a certain number is printed, one copy of a luxury edition of a book to be supplied to the National Library, Cape Town Branch only, and reprints of books need to be supplied to the National Library, Pretoria Branch only (DACST, 1998).

#### **2.4.9.2 *Legal deposit of non-print material***

When legal deposit came into being as a term and as a system it centred mainly on printed media, specifically books. It is only fairly recently that paper has begun to be challenged as the dominant information carrier (Caslon Analytics, 2004; Rugaas, 1990: 42). This has led to changes in legal deposit legislation. A survey conducted as early as 1983/84 (Pinion, as cited by Lor, 1995: 103) found that most of the countries surveyed were making attempts to maintain national collections of non-print materials, and quite a number of them reported that legal deposit legislation relating to non-book material such as sound recordings, film and video, was either in progress or already existed.

More recent technological innovations and changes have brought about even newer forms of publications. As discussed in the previous section, recent legal deposit guidelines emphasize the need for countries to change existing or adopt new legislation to provide for the deposit of this material. The complexities of the issues raised by electronic publications represent one of the biggest challenges that legal deposit has ever had to face (Lariviere, 2000). As a support measure, the Conference of Directors of National Libraries (CDNL) issued a document on legal deposit of electronic publications with the main purpose of providing guidelines to countries planning to introduce new legislation (CDNL, 1996). Many countries have or are in the process of adapting their legislation. Some

have tried to cover audio-visual material, others extend their legal deposit legislation by introducing “technology-neutral” provisions (Caslon Analytics, 2005) and in some cases legal deposit legislation incorporates electronic publications specifically (Lariviere, 2000).

The legal deposit legislation concerning non-print publications in the four countries covered in this study has already been touched upon in section 2.3 as part of the discussion of general legislation. A summary is therefore presented here.

In the United Kingdom, it was long felt that legal deposit legislation should be extended to cover non-print material, and so the British Library commissioned a number of studies to look into issues arising from such an extension (Muir & Davies, 2000: 152; Russon, 2001: 84). In 1998 a group drawn from libraries and publishers was asked to develop an interim code of practice for the voluntary depositing of non-print publications. The voluntary scheme was introduced in January 2000 and is administered by the Joint Committee on Voluntary Deposit (Muir & Davies, 2000: 151; Poynder, 2004: 28). Even though the new Legal Deposit Libraries Act of 2003 makes provision for the deposit of all types of material including “printed and similar publications, including on and offline publications” (United Kingdom, 2003), this interim arrangement will continue until all problems associated with the implementation of the Act have been sorted out (British Library, 2005b).

Legislation in some states in Australia provides for the deposit of electronic materials, but due to the narrow definition of ‘library materials’ in the relevant Act, federal legislation does not. The National Library of Australia and the National Film and Sound Archive, in a submission to the Copyright Review Committee, stressed *inter alia*, that the scope of the Copyright Act of 1968 needed to be extended to include non-print

material (National Library of Australia, 1995). In the meanwhile, however, the National Library of Australia, with the permission and cooperation of the publishers concerned, has been collecting significant Australian online publications through voluntary deposit or by purchase since 1996, when the PANDORA project was launched (Gatenby, 2002; National Library of Australia, 2002). The purpose of the PANDORA Archive is

to collect and provide long-term access to selected online publications and websites that are about Australia, are by an Australian author on a subject of social, political, cultural, religious, scientific or economic significance and relevance to Australia, or are by an Australian author of recognized authority and make a contribution to international knowledge (PANDORA Archive, 2004).

In Malaysia, current legislation covers all non-printed library material including cinematograph films, microforms, phonograph records, video and audio recordings and other electronic material (Malaysia, 1986). However, the Act lacks a specific definition of electronic publications, which is regarded as a serious deficiency and it has been suggested that the Act be amended to clearly specify and define both off-line and on-line/networked publications (Shahrozat & Edzan, 2004: 74).

In South Africa, the changing technological environment particularly involving audio-visual and electronic media, and the resulting conviction that a country that collects only printed material will be collecting a steadily declining proportion of its published heritage, were the main considerations that led to the enactment of the new Legal Deposit Act in 1997 (Lor & Cillie, 1997: 6; Lor, Britz & Watermeyer, 2006: 41). Previous South African legislation did not provide for the depositing of audio-visual material and until now the National Film, Video and Sound Archives collected such material on a basis of voluntary agreement (Lor & Cillie, 1997: 7). Regulations dealing with material in the form of discreet

objects such as audio-visual media and also hand-held electronic media have been published in the Government Gazette (DACST, 1998). However, regulations concerning dynamic online electronic publications such as websites for example, have not yet been dealt with (Lor, Britz & Watermeyer, 2006: 41).

Many difficulties arise in implementing the deposit of information in electronic/digital form. Many complex legal and technical problems need to be taken into account, and the costs surrounding the preservation of materials and the satisfactory provision of access to the information also have to be considered (Lor & Cillie 1997: 7; Lor & Geustyn, 2001). South Africa lacked the capacity for addressing all the necessary implementation procedures immediately after the Act was proclaimed. It was consequently decided that legislation would have to be phased in gradually and electronic documents were initially only deposited at the request of the National Library in Pretoria (Letshele & Lor, 2002; Report on the first..., 1999: 11). A strategy for implementing the new legislation was envisaged by the National Library of South Africa and the Legal Deposit Committee that would include *inter alia* undertaking small pilot projects to gain experience of the various media, learning from knowledgeable libraries in America and Western Europe, and accepting offers from colleagues specifically in the Nordic countries to assist in training, systems design and software (Lor & Geustyn, 2001). A project managed by the Foundation for Library and Information Service Development (FLISD) in South Africa on behalf of the National Library is currently under way to plan for the legal deposit of all types of electronic publications, including websites (Lor, Britz & Watermeyer, 2006: 41).

### 2.4.9.3 *Government publications*

The depositing of government material and access to government information are regarded as crucial aspects of legal deposit (Jasion, 1991: 14; Lor, 2003a: 6). A country's culture includes its political processes (Mabandla, 1997: 5) and not including government publications in a national legal deposit scheme would deprive the nation's cultural heritage of an integral component (Lariviere, 2000). Depending on the type of government structures in place, or by whom government publishing is done, the deposit of government publications form part of the legal deposit systems in most countries, although they may not necessarily be included in main legal deposit legislation (Lariviere, 2000; Jasion, 1991: 14).

In the United Kingdom the term "publisher", as used in the Legal Deposit Libraries Act (United Kingdom, 2003), includes all government departments and agencies that publish print and non-print material, and these publications must be delivered to the six legal deposit libraries as stipulated in the Act. In addition, although it is not a legal deposit institution, the Library of Queen's University in Belfast is regarded as the official deposit library for Northern Ireland official publications (OPSI, 2005).

In Australia the Copyright Act of 1968 does not cover government publications. The National Archives of Australia is responsible for acquiring the records of the Commonwealth Government, and the State Archives or Public Record Offices for acquiring State government records (National Library of Australia, 2002). A great variety of directives and circulars are also issued by State and Territory governments, some of which require their government departments to deposit materials for preservation with the National Library as well as with their State or Territory library (National Library of Australia, 2002).



Malaysian legislation also does not make specific mention of the legal deposit of government publications. It can be argued that the use of the term “library materials” (Malaysia, 1986) in the Act automatically implies the inclusion of government publications, as was shown to be in the case of electronic materials (Sharozat & Edzan, 2004: 65). However, the term, even though it is meant to include the total spectrum of printed and non-printed material published in the country, is an inappropriate choice of term that could be interpreted incorrectly and does not do full justice to the wide range of publications that are subject to legal deposit.

In South Africa, the Legal Deposit Act provides for the establishment of Official Publications Depositories (OPDs) (South Africa, 1997). It is generally acknowledged that the Federal Depository Library Program of the United States, where most Government Publications Depositories are academic and public libraries that serve constituencies of every district in the country (Adler & Lowry, 1998: 387), served as the model which inspired the South African concept of OPDs (Baker, 2004: 4; Lor, 2003a: 6). The Legal Deposit Act defines an official publication as “... a document which is published by an organ of state of national, provincial or local government, a parastatal organization or any other institution listed as a public entity...” (South Africa, 1997). Legislation requires that at least one OPD be established in each of the nine provinces in South Africa. Existing legal deposit libraries, with the exception of the Library of Parliament that is not open to the public, may also be designated as OPDs (Lor, 2003a: 6). The duties of the OPDs are the same as those of the other places of legal deposit.

Problems are being experienced with the designation of OPDs. Reasons for this include the following: i) OPD’s will receive publications of all three tiers of government as well as those of other government bodies; ii)

a lot of preliminary work is required such as adding material to stock, and processing them and making them available to clients will make considerable demands on designated libraries required; and iii) the rapid development of technology has to be taken into account (Lor, 2003a; Ramohlola, 2006). As in the United States, where a paradigm shift towards provision of government information in electronic forms is taking place (Adler & Lowry, 1998: 387; Kumar, 2006: 226), it is not unrealistic to expect that the OPDs will have to be geared more to providing public access to Web-based government publications in South Africa as well (Lor, 2003a: 20). It is, however, anticipated that these depositories will eventually provide systemized structures for the dissemination and promotion of government documents, and accordingly play an important role as agencies through which the public can gain effective access to government information (Baker, 2004: 5; Lor & Van As, 2002: 103; Tuckett, 2003: 31).

#### **2.4.9.4 *Copyright and legal deposit***

Copyright issues are very important when it comes to legal deposit, but the two terms should not be misunderstood or intermixed. Different international conventions allow different uses of the terms. The Universal Copyright Convention, for example, allows signatory states to include procedures such as deposit in their copyright legislation. The Berne Convention, however, requires that copyright protection be available without any other formalities; legal deposit cannot therefore be made compulsory, and parallel schemes then become necessary (Lariviere, 2000). As a result, various scenarios may exist, such as countries where legal deposit is attached to copyright legislation, countries where legal deposit is not attached to copyright legislation, but where the name of the act still says 'copyright', and countries where legal deposit legislation has no connection to copyright at all.

An important issue in the question of legal deposit and copyright is the need for deposit institutions to be able to make copies for preservation purposes and/or future use, as this may conflict with copyright legislation in a specific country. In most cases legislation allows the institution to reproduce a (print) document for purposes such as replacing damaged or lost copies if the work is not available elsewhere (Lariviere, 2000; Scott, 2002). This, however, becomes more complicated in the electronic environment, where permission would need to be granted to download or reproduce whole works, not only for replacement purposes but for deposit purposes as well (Gatenby, 1999; Lariviere, 2000; Seadle, 2001: 310). Another potential problem with electronic material regards access. Exceptions to copyright are required so that copies can be made with the aim of providing the public with reasonable access to the material (Gatenby, 1999; Lariviere, 2000; Scott, 2002: 4)

In the United Kingdom, there has for a long time been no connection between the act of legal deposit and the conferring of copyright, but since legal deposit provisions formed part of the Copyright Act, the term 'copyright library' was and is still widely used (McGowan, 1994: 74). The new act which replaces section 15 of the Copyright Act, is more appropriately named the Legal Deposit Libraries Act. The act makes provision for the reproduction of both printed and electronic material for specific purposes under prescribed circumstances and specifically states that copyright is not infringed by the copying of a work from the Internet by a legal deposit library or a person acting on behalf of such an institution (United Kingdom, 2003).

In Australia, legal deposit falls under the Copyright Act, but is clearly distinguished from copyright. Library records and the legal deposit receipt issued to the publisher by some legal deposit libraries may,

however, be used as copyright evidence of date of issue (National Library of Australia, 2004)

Malaysian and South African legislation make no mention of copyright in the relevant Acts themselves. The assumption can be made that the connection with copyright (as was the situation under previous British legislation) has not been relevant for so long that a reference is regarded as unnecessary.

#### ***2.4.9.5 Enforcement of legal deposit legislation***

Enforcement is a very important issue with regard to implementing legal deposit. In order to place pressure on a publisher to comply with the law it is generally recommended that legislation should include a penalty for non-compliance (Council of Europe/EBLIDA, 1998; Lariviere, 2000). Although such a fine should be substantial enough to support the legal deposit requirements, it should on the other hand not be so unreasonable as to prompt legal challenge of the law as infringing the principles of freedom of expression (Lariviere, 2000).

If a publisher fails to adhere to legal deposit legislation in the United Kingdom, the library may apply to the county court for an order requiring the publisher to comply with the obligations stated in the Act. If a publisher is unable to comply the court may instead make an order requiring the publisher to pay to the library an amount which is not more than the cost of making good the failure to comply (United Kingdom, 2003).

In Australia, a small penalty of \$100 AD is imposed for non-compliance. The most recent information available in the literature proposes that the

penalties should be increased and expressed in terms of penalty points (National Library of Australia, 1995).

In Malaysia, a publisher who fails to deliver material is liable to a fine not exceeding three thousand ringgit (1Ringgit = 2 ZAR). On conviction the court orders the publisher to deliver the library material in its original form or a reproduction thereof if no longer available. If the publisher concerned fails to do this, it has to pay the cost incurred by the Director General for the reproduction of the material (Malaysia, 1986).

The South African Legal Deposit Act provides for a fine not exceeding R20 000 for failure by a publisher to deposit material. In addition, to remedy the non-compliance, such documents have to be supplied by the publisher to the place(s) of legal deposit within 30 days, or copies may be bought, or if no longer available, reproductions made, by the place(s) of legal deposit, and costs recovered from the publisher. If all these measures fail, the designated officer from the Department of Arts and Culture may, in consultation with the Legal Deposit Committee, institute civil proceedings against the offending publisher (South Africa, 1997).

#### **2.4.10 Comparative summary of legal deposit legislation**

The information discussed in this chapter on legal deposit can be effectively presented as a table. The table provides a simplified and easy comparison of the issues covered by legislation in the four countries, and a comparison of this information with the recommendations contained in Lariviere's *Guidelines for legal deposit legislation*. Although the order in which the various issues are discussed in this chapter differs from the order in which they appear in Lariviere's document, the basic principles, issues, and elements covered by his work have, as far as was practical for the purposes of this study, been incorporated in this chapter.

**Table 2.1: Comparison of legal deposit legislation in four countries**

<b>Lariviere guidelines</b>	<b>United Kingdom</b>	<b>Australia</b>	<b>Malaysia</b>	<b>South Africa</b>
<b>Legislation</b>				
<i>Statutory obligation and national responsibility</i>	Yes	Yes. Federal and state	Yes Also on state level	Yes
<i>Specific law or part of another</i>	Specific Act	Part of Copyright Act	Specific Act	Specific Act
<b>Issues covered in legislation</b>				
<i>Objectives of legal deposit stated</i>	No, only in general terms	No, only in general terms	No, only in general terms	Yes
<i>Origin or place of publication stated</i>	Yes	Yes	Yes	Yes
<i>Depository /place of publication</i>	British Library + 5 other libraries	National Library + state libraries	National Library + state/ public libraries	National Library + 3 other libraries (plus NFVSA + OPDs)
<i>Number of copies</i>	6 copies	2 copies (1 to Nat. Libr. + 1 to relevant state libr.)	5 copies of print material, 2 copies of non-print	5 copies to legal deposit libraries (excl. NFVSA and OPDs)
<i>Costs</i>	Costs borne by publisher	Costs borne by publisher	Costs borne by publisher	Costs borne by publisher
<i>Time of deposit</i>	Within 1 month of publication	Within 1 month of publication	Within 1 month of publication	Within 14 days of publication
<i>Depositor/who should deposit</i>	Publishers	Publishers	Publishers	Publishers
<i>Comprehensiveness/types and scope of publications</i>				
<i>* Definition of terms</i>	New Act specifies print and non-print	Term “ <i>library material</i> ” to be changed in future	Comprehensive description of term “ <i>library material</i> ”	Generic terms used to replace older terms
<i>* Exemptions</i>	Libraries can decide on exemptions	No mention of exemptions	Provision for exemption and disposal of material	Provision for exemption and disposal of material
<i>* Electronic publications</i>	Electronic covered in new Act	Current term of “ <i>library material</i> ” excludes publ. by transmission i.e. electronic not included	Electronic publ. not included in Act but are assumed to be covered by term “ <i>library material</i> ”	All types of material covered in Act incl. electronic
<i>* Government publications</i>	Term “ <i>publication</i> ” also includes gov. publ.	Gov. publ. not included in Act	Gov Publ. not included in Act but are assumed to be covered by term “ <i>library material</i> ”	Specific provision for government publications

<i>Copyright</i>	Historic connection with copyright. Copyright restrictions covered in new Act	Legal deposit falls under Copyright Act but clear statements by libraries not to confuse the issues. General provision for copyright in Digital Amendment Act	No current connections with copyright. No mention of copyright in Act	No current connections with copyright. No mention of copyright in Act
<i>Enforceable with fine structure</i>	Yes	Yes with small penalty	Yes	Yes

## 2.5 Summary

This chapter provided a short overview of legal deposit legislation in general, with a more detailed discussion, based on the guidelines for legal deposit legislation developed by Lariviere, of the specific elements and issues covered in such legislation. With the aim of contextualising South African legislative issues, a comparative overview of legislation in the United Kingdom, Australia, Malaysia and South Africa was given. The chapter concluded with a comparative table of the legislative and other issues covered in the discussion.

The importance of a system of legal deposit for a country cannot be underestimated. It ensures the acquisition of all published materials emanating from and relating to a country, guarantees the preservation of this material, and provides access to the publications received as legal deposit. South African legislation compares excellently with that of other countries such as the United Kingdom, one of the first countries in the world to establish a legal deposit system, Australia, a country with many similarities with South Africa, and Malaysia, a fellow developing country. In addition, the exposition of the issues contained in legislation clearly underscores the findings of Bazan (2004) that South African legal deposit legislation complies excellently with international recommendations.

Legislation, however, can only be implemented successfully if the necessary activities, procedures, and supporting mechanisms and structures involved in the process of implementing legal deposit, are in place. These issues are discussed in the next chapter to gain insight into the crucial factors that form the basis for this study's investigation into legal deposit as envisaged.



## 3 The process of implementing legal deposit

### 3.1 *Introduction*

The implementation of legal deposit depends not only on satisfactory or even superior legislation, but also requires certain procedures to be in place to ensure the successful execution, monitoring, and management of a legal deposit programme. The aim of this chapter is to identify the particular activities and the supporting structures that are necessary for a legal deposit institution to achieve its legal deposit goals. Discussed within the framework of the legal deposit process, this constitutes a significant portion of the background information against which the empirical research for this particular legal deposit project was conducted and the subsequent analysis and interpretation of the results was undertaken.

The first section of the chapter examines the stages of and the various tasks associated with the process of practically implementing legal deposit in a national library or other legal deposit institution.

This is followed by a discussion on the monitoring and enforcement of legal deposit. Procedures for tracing non-compliant publishers, methods of enforcing compliance with legislation, and knowledge of the levels of compliance lie at the heart of the effective management of a legal deposit system.

The remainder of the chapter considers the various managerial, political, economic, legal and other internal and external factors that affect the

process of legal deposit and consequently impact on the practical execution of a system of legal deposit in a country.

### **3.2 *Stages in the legal deposit process***

#### **3.2.1 Background**

In any organisation certain processes form the foundation for the fulfilment of work tasks within that particular organisation. The identification and design of these processes can have a positive or a negative effect on how effectively and efficiently the core activities of the organisation are implemented and the necessary tasks are completed (Williams & Johnson, 2004: 167; Watson, T.J., 2002: 58).

Although Lor (1997) expounds to some degree on the general processes associated with executing the legal deposit function of a national library, and Rugaas (1990: 44, 45), in the same vein, touches upon the legal deposit tasks of the national library, there is a definitive lack of literature detailing the processes and activities concerned with practically implementing legal deposit for print publications.

This shortcoming is also apparent with regard to electronic material. Other general problems and issues surrounding the preservation of electronic publications have been addressed quite extensively in the literature such as studies by Andrews and Law (2004: 222), Beagrie (2003), Knudsen (2006), Lavoie, (2000), Marcum (2000), Martin (2001), and UNESCO (2003), but research that specifically covers the activities related to digital legal deposit is, as for print, still somewhat lacking. Some processes are mentioned in a recent article on the future of preserving South African websites by Lor, Britz and Watermeyer (2006: 42-44) but

merely as part of the broader discussion. Muir's development of an inclusive model identifying the various stages and processes of legal deposit, focusing on the delivery of electronic publications, is a valuable contribution towards filling this gap (Muir, 2001). Another venture, namely the collaborative Networked European Deposit Library (NEDLIB) project launched in 1998 and involving eight European national libraries, a national archive, two Information Technology organisations, and three publishers, also provides a description of the activities involved in the process of implementing the legal deposit of electronic publications. The aim of the project was to explore the technical and managerial issues surrounding the processes relating to the legal deposit of electronic publications. One important product was the design of a Deposit System for Electronic Publications (DSEP), linking the functions of deposit to the digital library environment, to serve as a basic infrastructure upon which a networked European deposit library could be built (Beaudiquez, 2001; Marcum, 2000; NEDLIB, n.d; Van der Werf-Davelaar, 1999).

The relative scarcity of available examples from the literature aimed exclusively at print means that, for the purposes of the discussion on the stages in the legal deposit process, to start from the assumption that the basic tasks associated with the process of implementing legal deposit would be applicable to both the print and electronic environments (CDNL, 1996; Field, 2002: 25; Lor, 1997). Based therefore on the available information covering these issues, the following have been identified as the core stages and corresponding activities on which the practical implementation of legal deposit, irrespective of the format of the publication, is based.

## 3.2.2 Identification

Acquiring the material subject to legal deposit starts with the depository institutions identifying such material (Muir, 2001: 657). Identification is closely related to the tracing and enforcement procedures covered in section 3.3 of this chapter, but practically these measures will also form the first stage in the process of implementing legal deposit. Some current and widely used methods for identifying printed books include the use of ISBNs (International Standard Book Numbers) and CIP (Cataloguing in Publication), and for digital material the use of URNs (Uniform Resource Names) and DOI (Digital Object Identifiers).

### 3.2.2.1 ISBNs (*International Standard Book Numbers*)

ISBNs serve as unique identifiers of particular titles and editions of books and some other forms of printed media. The International ISBN agency, located in Berlin, Germany, is the coordinator of the ISBN system. Blocks of ISBNs are allocated by the agency to specific regional groups or countries. Within each regional group or country the national centre responsible for the allocation of ISBNs allocate blocks of numbers to specific publishers according to their publishing output (International ISBN Agency, 2005). ISBNs facilitate inventory control and quick retrieval from databases, and as they are attached to bar codes are used in electronic point-of-sales systems<sup>4</sup>. As unique identifiers of monographs (i.e. books etc.) ISBNs can thus be extremely useful for identifying publications subject to legal deposit. In countries where the national library is also the agency responsible for administering ISBNs, legal deposit and ISBN activities usually complement each other (Lor, 1997).

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<sup>4</sup> The new 13-digit number that will be in use from 1 January 2007 will be identical with the EAN-13 number currently encoded in the bar code. The EAN (European Article Number) is a superset of the original 12-digit Universal Product Code (UPC) system developed in North America. EAN-13 barcodes are used worldwide for marketing retail goods (International ISBN Agency, 2005).

### 3.2.2.2 *CIP (Cataloguing in Publication)*

Another effective tool for identifying legal deposit material is CIP information. CIP involves preparing a catalogue entry for a book well in advance of printing and publication which then appears in the printed book (Prabha, 1996). CIP services are administered by national libraries or can be contracted out to other institutions for example the Bibliographic Data Services in the United Kingdom (British Library, 2005a). In the United States the Library of Congress has fairly recently established Electronic CIP (E-CIP), a tool that speeds the process and reduces costs (Farrel, 2001: 5). Although using CIP services is voluntary for publishers, it does provide depository institutions a possible means of tracking new publications and at the same time eases the cataloguing burden of other libraries and encourages standardisation (Crews, 1988: 574; Farrel, 2001: 5).

### 3.2.2.3 *Identification of digital material*

Various systems for identifying objects in the digital arena have been developed, and as with identifiers in the print environment, could be used to trace digital material for legal deposit purposes. URIs (Uniform Resource Identifiers) are short strings of characters that identify resources on the Web. A Uniform Resource Name (URN), as a subset of the URI, identifies a resource or unit of information independent of its location. URNs have been embraced by both networking and library communities (Arms *et al.*, 1996). The Digital Object Identifier (DOI) is an implementation of the URN and URI concepts. A DOI name provides a means of identifying an object on a digital network and associates it with related current data. It differs from bibliographic identifiers such as the ISBN as it can be associated with defined services and is immediately actionable on a network. The DOI is specified by the NISO (ANSI.NISO Z39.84) standard (DOI, 2006).

### 3.2.3 Selection

The comprehensiveness of a country's legal deposit collection (see chapter 2, section 2.4.9) is a major aim of legal deposit systems (Jasion, 1991; Muir, 2001: 653). This ideal rests on the principle of collecting and preserving a nation's published heritage without making any judgements on the value of material, be it of moral, political or artistic nature (Lariviere, 2000). From a practical point of view, however, many legal deposit acts make provision for depository institutions to be selective in what they acquire (Lariviere, 2000; NEDLIB, n.d.).

There are differing opinions as to the acceptability of depository institutions' deciding whether they wish to acquire all or only a selection of materials. Some argue that as broad a coverage as possible is preferable, as selectivity would prejudge material, and even ephemeral and unimportant or "unsuitable" (Graham, 2001: 21) categories of works could have cultural and sociological importance and be of value for research in the future (Ceeney, 2003: 273; Haddad, 1999). Not only would this wide collection approach prevent "good" or "bad" collection policies (Ceeney, 2003: 273) but it would also ensure that the national bibliography would not be covering only mainstream materials that "professional publishers" consider to be of research value (Beaudiquez, 2001).

Others argue, however, that considering the increase in information and the inability of libraries to cope with expanding collections, selection policies may be more feasible than comprehensiveness in legal deposit collections (Davies, 1998: 160). This approach is especially prevalent with regard to electronic publications (Lor, Britz & Watermeyer, 2006: 42; Muir, 2001: 658). Staff, time, storage capacity, technical and technological capabilities, and the needs of individual institutions are all factors that

influence selection decisions (Coult, 2001: 3; Eden et al., 1999: 273; Line, 1995: 2).

### 3.2.4 Acquisition

Mechanisms for acquiring or buying library material usually form part of a library's existing operational system. In the case of legal deposit libraries, however, "some responsible entity *sends* [researcher's italics] objects to depositories" (Muir, 2001: 659). There are three main issues surrounding the acquisition of publications that can impact on the efficient execution of the legal deposit process, namely time of delivery, number of copies to be deposited and the costs involved in depositing.

#### 3.2.4.1 *Time of delivery*

The legislation of a specific country determines how soon after publication legal deposit material has to be delivered. Depository institutions generally hold that the depositing of books should take place as soon as possible after publication. This ensures that users have access to new publications, and that material that could go out of print quickly will still be deposited in time. It also ensures the timeliness and currency of the national bibliography and other databases (Beaudiquez, 2001; Lariviere, 2000; Lor & Geustyn, 2001).

From the publishers' point of view, electronic publications are better deposited early rather than late as this suits the life cycle of publishing (Cedars, 1999). Publishers of print materials, however, have to contend with various factors once a book gets to the production stage, such as possible printing, binding, and distribution delays (Graham, 1994: 139; McDowell, 1997: 34). These can all affect the prompt and efficient delivery of books for legal deposit.

#### **3.2.4.2 *Number of copies***

In his guidelines for legal deposit legislation, Lariviere (2000) recommends that legislation should provide for the deposit of a minimum of two copies of a publication, one for preservation and one for use. Even though the deposit of only one copy of a publication was already in earlier years regarded as being insufficient (Partridge, 1938: 9), publishers are still consistently voicing their displeasure with the compulsory deposit of multiple copies of their publications (Lariviere, 2000; Whitaker, 2001: 25). Some European countries such as Belgium, the Netherlands and Switzerland require only one copy of a book on legal deposit. There are, however, countries that require significantly more and this often creates discomfort with publishers (Graham, 1994: 131; Voorbij & Douwma, 1997: 166; Whitaker, 2001: 24-25) leading to bad relationships with depository institutions.

#### **3.2.4.3 *Costs***

From the very early stages of legal deposit, the free delivery of publications by publishers as is required by legal deposit legislation has been controversial (Partridge, 1938: 13). Although there are countries, for example Japan, where publishers are compensated for providing their publications for legal deposit (Lariviere, 2000), such concessions are not the rule. Publishers query the arrangement whereby they alone bear the burden of supplying free copies of their publications, and they argue that material should rather be purchased by the depository institutions (Davies, 1998: 165; Graham, 1994: 112; Whitaker, 2002: 25). Although the practice of providing free copies is of concern to all publishers, the cost issue can be a significant problem for especially smaller or private publishers with short-run, limited, or high-cost publications (Davies, 1998: 165; Hattingh & Hamman, 1998: 112). On the other hand most libraries, as depository institutions, do not have the money to realistically purchase all



legal deposit material. There are also significant costs involved in the processing, cataloguing and storage of the ever-expanding stock of “free” material received on legal deposit (Beaudiquez, 2001; Davies, 1998: 160; Lor, 1995: 98; Russon, 1999).

### **3.2.5 Accession activities**

The major tasks associated with processing the legal deposit material received by repository institutions include creating a national bibliography, describing publications using accepted international standards, and preserving and storing the material received on legal deposit.

#### **3.2.5.1 *Creating a national bibliography***

Compiling a national bibliography/database of legal deposit material is acknowledged as an accepted and important function of the National Library or depository institution (Lariviere, 2000; Ratcliffe, 1999: 80). An effective legal deposit system forms the basis for the creation of such a national database. As this bibliographic information is taken up in international databases and published in foreign catalogues as well, national bibliographies not only provide public access to and information on legal deposit material in a specific country but are also valuable for publishers as they serve to promote and provide access to a country’s publications globally (Beaudiquez, 2001; Lariviere, 2000; Lor, 1995: 97).

#### **3.2.5.2 *Describing materials received***

Before the information contained in databases can be used, it must be retrieved. The use of accepted bibliographic standards for describing the material received as legal deposit, especially with the aim of creating the

national bibliography, is thus essential (Haddad, 1999). As part of the accession process, depository institutions perform functional checking for the correct version, medium, format, etc. of the publication, as well as quality checking to ensure that basic bibliographic information (including ISBNs) has been provided for the publications received as legal deposit. The amount and type of information collected at this stage of the legal deposit process not only affects the accessibility of the material, but in the case of digital publications will also have a significant effect on the long-term preservation of the material (Muir, 2001: 660).

### **3.2.5.3 *Preserving and storing material***

The preservation of material received as legal deposit is the most generally accepted and most often quoted function of legal deposit (Lariviere, 2000; Jasion, 1991: 7; Lor, 1995: 96) and is the theme that runs through the whole legal deposit process (Muir, 2001: 654). Various preservation issues associated with managing and administering the material, such the methods for preserving and storing material, physical facilities, and storage capacity, all influence the effective fulfilment of the preservation responsibility of the depository institution (Cline, 2002: 4; Coult, 2001: 3; Eden *et al.*, 1999: 273; Rugaas, 1990: 44). In addition factors such as format, media stability, technological obsolescence and so forth are especially problematic in the electronic environment (Lor, Britz & Watermeyer, 2006: 43,44; Muir, 2001: 661).

### **3.2.6 *Access /delivery***

Providing free public access to legal deposit collections is one of the core activities associated with legal deposit (Lariviere, 2000; Lor, 1995: 97; Muir, 2001: 671; NEDLIB, n.d.). Legislation, however, does not always specify that the public have a right of access to the legal deposit collection

(Jasion, 1991: 161; Lor, 1995: 96). Such an omission is seen as regrettable. Focusing too much on preservation aspects such as collecting, organising and storing publications is pointless if the publications are never to be used (Cornish, 1998a: 242; Lor, 2003b: 147). The challenge thus lies in balancing the conflicting requirements of the preservation of and access to legal deposit material (Cline, 2002: 5; Lor, 1995: 96). The issue of access has also created a certain amount of tension in the way that legal deposit is practically implemented especially for publishers, who are often uneasy about possible uncontrolled access to their publications (Cornish, 1998a: 242; Lariviere, 2000; Muir, 2001: 671). Document delivery and copyright are the two main issues of concern in this regard.

### **3.2.6.1 Document delivery**

Document delivery/interlibrary loan has become one of the major means by which information is shared internationally. In the current technological age, accomplishing this flow of information is becoming easier and the role of rapid resource sharing more crucial (Cornish, 1998b: 96). For publishers this “unrestricted” (Graham, 1994: 153) access to legal deposit documents has long been troublesome. The main issue of concern is the way in which the commercial interests of publishers may be affected (Russon, 1999). Legal depository libraries are generally sensitive to this and aim to provide means of access to material that will not compromise the possible sale of a work (Davies, 1998: 164; Lariviere, 2000). For example, in many legal deposit libraries, such as the British Library, legal deposit copies of works may be used in the reference library only and may not be used as a base for interlibrary loan or document supply services (Davies, 1998: 163).

### **3.2.6.2 Copyright**

Closely related to access and document delivery is the copyright issue. From the publishers' point of view copyright, as the means of protecting the moral rights of authors and controlling the commercial exploitation of a work, "remains at the centre of our stage and the defence of it our very livelihoods" (Davies, 2001: 34). It is an issue that generates debate all over the world (Ceeney, 2003: 274; Scott, 2002). Although publishers generally agree with the basic principles of reasonable access to and use of their work in legal deposit institutions, they feel that access should be balanced with remuneration for copyright owners (Davies, 2001: 33). However, depository institutions do not have the financial means to comply with these wishes, and also copyright legislation generally makes special provision for the copying of and access to legal deposit material (Lariviere, 2000; Scott, 2002). Legal deposit institutions should be aware of the perceived conflict between them and copyright owners (Cornish, 1998b: 95; Scott, 2002) as understanding and trust between all parties is required if the aim of providing access to works in a non-exploitive manner that does not disrespect the author's or publisher's rights is to be achieved (Muir, 2001: 654; Scott, 2002).

## **3.3 The monitoring and enforcement of legal deposit**

### **3.3.1 Introduction**

The literature on legal deposit and the issues surrounding its implementation clearly shows that a gap exists with regard to meaningful discussions on or practical examples of monitoring and enforcement procedures. Crews (1988) and Jasion (1991) give some indication of legal measures taken by various countries to enforce compliance by way of

finances or other means. The same type of general information is provided by Lariviere (2000) in his *Guidelines to legal deposit legislation*. Other sources containing guidelines on library legislation and policy (Council of Europe/EBLIDA, 1998), and guidelines for national library legislation (Lor, 1997), refer to issues such as recommendations for sanctioning non-compliance with legal deposit, but as they aim to provide general legislative information for national and other libraries, they cannot be realistically expected to provide more specific information on legal deposit matters. Depository institutions bear the responsibility not only of identifying material subject to legal deposit and processing the material received, but also for monitoring and enforcing compliance with legal deposit legislation. Identifying means of doing so is critical for the purposes of this study.

### **3.3.2 Tracing non-compliant publishers**

In practice, depositories do not necessarily receive all the material that has been published nationally. Tracing publishers who do not deliver their material is one of the central issues of concern in this study. Though little information is available in the literature on ways in which non-complying publishers can be traced, two studies deserve mention.

In the first, Chapman (1997) reports on the BNB/MARC currency survey. This is an annual performance measurement survey conducted by the British Library that looks at the proportion of titles with United Kingdom (UK) imprints currently being acquired by UK libraries for which a BNB/MARC record is available, and also checks whether this proportion is increasing or decreasing over the long term. Thus publications available in randomly selected public and academic libraries in the United Kingdom and Ireland can be compared against British Library deposits (i.e.

BNBMARC files), and deductions made, such as how many publications are not received as legal deposit within a specific time frame. Some of the methods used in the survey, such as the checking and rechecking mechanisms, and verifying against online publishers' directories, could be adapted for the South African context.

A study was also conducted in the Netherlands by Voorbij and Douwma (1997) to assess the coverage of the deposit collection (i.e. publications received as legal deposit) of the *Koninklijke Bibliotheek* in The Hague. Although the researchers did not specifically identify ways to monitor compliance, a number of their methods such as using ISBN lists and targeting databases of specific categories of material for checking against the national bibliography, could be of value for local implementation.

### **3.3.3 Enforcement of legal deposit**

The issues surrounding the enforcement of legal deposit legislation are directly related to the implementation of legal deposit by depository institutions and the compliance of publishers in depositing their publications.

#### **3.3.3.1 Enforcement procedures**

Although some countries manage legal deposit without specific legislative measures, it is strongly recommended that a system of legal deposit in a country be developed based on legislation, so that the procedures are taken seriously by publishers (Lariviere, 2000). To be effective, a law must be enforceable, and to be enforceable it must place pressure on publishers to comply by means of a penalty structure/penalty clause for contravention of the law; the penalty can be financial or some other

measure (Bell, 2000: 169; Council of Europe/EBLIDA, 1998; Crews, 1988: 551; Lariviere, 2000).

However, legislation alone does not necessarily guarantee compliance. Problems surrounding the enforcement of compliance with legal deposit go back a long way. Historians claim that, despite its “official and royal character” (Lariviere, 2000), the Montpellier Ordinance of Francis 1 in 1537, the decree that introduced the principle of legal deposit, was not always obeyed. In the United Kingdom in the 1700s and 1800s authors and publishers “resorted to all kinds of shifty expedients to elude their obligation” (Partridge, 1938: 68). This problem is seemingly ongoing. In spite of the penalties contained in current legal deposit legislation, there is a perception that agencies and depository institutions are not as effective as expected in claiming missing documents (Knutsen, 2003: 35; Line 1995: 2). The difficulty could lie in the penalty structures themselves. If penalties are too low, they may not be significant enough to compel publishers to comply, and such a clause contained in legislation is therefore of no practical value (Crews, 1988: 566; Jasion, 1991: 8; Lor, 1995: 100). Libraries and other depository institutions are also, more often than not, hesitant to strictly enforce penalties as the cost of litigation would, in most cases, be more than the cost of the item in question (Crews, 1988: 552; Lor, 1995: 100; IFLA National Libraries Section, 2004). In general the prevailing opinion is that enforcing penalties should be used only as a last resort. It may be more advisable to not use criminal sanctions for non-compliance, but to rely on the civil remedies of negotiation and cooperation and the goodwill of the publishers to comply with legislation, as this could on the whole be more beneficial to all parties involved (Davies, 1998: 165; IFLA, 2004; Lariviere, 2000; Library Association, 1997).

### 3.3.3.2 *Court cases*

Limited information is available in the literature on examples of specific cases of non-compliance and how they were handled in court. One article that touches on the subject very superficially concerns the unresolved case in the United States of a publisher that ceased sending its publications to the Library of Congress (T.G., 1995: 211). In the same article a case from 1985 is recounted in which Law & Technology Press argued in the United States Court of Appeals that copyright deposit (i.e. legal deposit) was an “unconstitutional burden on the press” (T.G., 1995: 212). The court ruled against the publisher.

Further mention of cases of non-compliance is made by Crews (1988: 565) who reports that in the period of 1980-1988, 45 cases of non-deposit were reported to the Department of Justice for legal action in the United States, of which only four were eventually taken to court. Jasion (1991: 8) speaks of at least four court cases published in Canada, Denmark, the United States of America and the United Kingdom, in which legal deposit provision was upheld.

In the United Kingdom one of the first recorded court cases against non-delivery was in 1812 (Harris, 1998: 40). The most “prolific” time for enforcement and court action, however, was during the Keepership at the British Museum of Panizzi when from May 1850 to July 1876 proceedings were taken against 158 publishers (Harris, 1998: 218, 219; Whitaker, 2001: 25). On the whole, though, serious court action taken against publishers was not the norm (Partridge, 1938: 84). The last recorded case that was taken to court in the United Kingdom was in the 1920’s (Byford, 2005; Harris, 1998: 518).

In South Africa the only case that could be traced, between Pippa Skotnes and the South African Library, began in 1993 and lasted until 1997 and has



become legendary. Skotnes regarded copies of her (very expensive) book as an “art work” and not a book, and therefore refused to supply a legal deposit copy to the (then) South African Library. This was the first dispute of this nature in the 124 years that the South African Library had served as a legal deposit library. The Supreme Court ruled in favour of the Library, after which the publisher took the case to the Appeals Court where the application was dismissed with costs (Westra, 1997: 129).

### 3.3.4 Measurement of compliance

Even if tracing and enforcement procedures are in place, a country has to know to what extent publishers comply with legal deposit. This information will not only assist in identifying non-complying publishers and areas where coverage is insufficient, but could also be valuable in developing ways by which compliance with legal deposit can be improved. Figures indicating the levels of legal deposit compliance for individual countries are not commonly available in the general literature. The figures that are available, however, seem to contradict the general perception of a wide range of non-complying publishers (as mentioned in second paragraph of section 3.3.3.1).

Crews gives some indication of statistics in his 1988 article in which he reports that the *Bibliothèque Nationale* in France claims to receive 90-100% of all the material it desires (Crews, 1988: 564), the Swiss National Library with its voluntary system of legal deposit claims nearly full compliance from publishers (Crews, 1988: 567), and the United States receives 90% of its domestically published material (Crews, 1988: 575).

Although Line (1995: 2) contends that the legal deposit of certain types of literature, including commercial literature, is poor in the United Kingdom,

other writers claim otherwise. Davies holds that overall cooperation from publishers for the deposit of material has been good (Davies, 1998: 161), and the BNB MARC survey discussed in section 3.3.2 of this chapter indicates a level of non-compliance of about 10% (Chapman, 1997). In a recent e-mail correspondence John Byford, the legal deposit librarian at the British Library, estimates a receipt of 97% of all material liable for legal deposit (Byford, 2005).

In Australia, Whitehead (1995) and Triffett (2006) maintain that compliance with legal deposit is high, in the range of 90-95%. In the Netherlands, the comprehensive study that was done to determine the coverage of legal deposit of material including books, dissertations, periodicals and grey literature (Voorbij & Douwma, 1997) showed, in spite of the voluntary system of legal deposit, that with the exception of grey literature, there is a high percentage of compliance ranging from 88% to 97%.

In some countries in Eastern and Central Europe, however, where publishing as a result of political transformation has fairly recently been released from state control, many publishing houses were being established without a view of adhering to legal deposit legislation at all (Cornish, 1994: 67; Lehmann, 1994: 108). In the Czech Republic for example, there is much disagreement between publishers and libraries about legal deposit and although the number of copies to be submitted has been reduced from 27 to five, publishers are still loath to deliver (Stoklasova *et al.*, 2002).

### *3.4 Factors affecting the process of legal deposit implementation*

#### **3.4.1 Introduction**

All the processes and elements that comprise a system of legal deposit are interrelated, and decisions taken at one stage of the process will affect those taken at another stage (Muir, 2001: 655). Libraries as depository institutions furthermore, like other organisations, do not exist in a vacuum. They are subject to a wide range of external and internal factors that can influence the decisions that are taken within the organisation, which in turn inevitably have an effect on the successful fulfilment of the organisation's tasks and functions (Gordon, 2005: 229; Williams & Johnson, 2004: 41). Some of the more significant factors that directly impact on the effective implementation of legal deposit are the following.

#### **3.4.2 Management**

Managers play an important role in any organisation. They are responsible for a wide range of issues ranging from managing resources and activities, and making decisions to best accomplish organisational goals (Watson, T.J., 2002: 65; Williams & Johnson, 2004: 11), to directing and motivating employees to ensure that they work effectively and efficiently (DuBrin, 2000: 12; Watson, T.J., 2005: 134). The manager's role is also important in legal deposit institutions. For any legal deposit system to be implemented effectively its processes have to be managed both strategically and operationally. For this purpose, experienced managers are essential (Brophy 2000: 180; Gordon, 2005: 10). In addition, without employees adequately trained in functions ranging from cataloguing and

classification to solving intricate technological problems, a legal deposit system cannot function satisfactory (Letshela & Lor, 2002; Lor, 1995: 103; Rugaas, 1990: 28).

### **3.4.3 Economic factors**

A manager has the authority to commit organisational resources, including financial resources, to achieve organisational goals (DuBrin, 2000: 3). Economic conditions are different in different types of organisations, but in any organisation financial decisions have considerable impact on the implementation of activities and completion of tasks (Williams & Johnson, 2004: 45). The nature and scale of most library services are determined by the allocation of resources. In the realm of legal deposit significant costs are involved in terms of staffing commitments and the processing of publications (Beaudiquez, 2001; Lor, 1995: 98). Different strategies for preserving published material will furthermore have different economic implications, as preservation and storage cost money both in the print and electronic environment (Coult, 2001: 3; Muir, 2001: 655; Neal, 2002: 155; Russon, 1999; Smethurst, 1992: 33).

### **3.4.4 Communication**

Effective communication in an organisation is essential for its success (Shockley-Zalabak, 1995: 6). Communication in an organisation differs from general communication in that it is a process of giving and receiving feedback with the ultimate aim of achieving results (Hattersley & McJannet, 2005: 37; Williams & Johnson, 2004: 231). Any library, including a legal deposit library/institution, that does not recognise the importance of freely flowing communication will fail in what it has set out to achieve

(Gordon, 2005: 114). Good communication between all the role players is therefore essential if legal deposit is to be successfully implemented.

### **3.4.5 Technological factors**

As technology becomes more sophisticated and widespread, so the variety of and the subsequent changes in the use of these technologies become important factors in the everyday running of an organisation (Gordon, 2005: 169; Williams & Johnson, 2004: 49). It is an acknowledged fact that the emergence and rapid development of technology has brought about a qualitative and quantitative transformation of the whole information industry (Brophy, 2000: 161; Limb 2004). For the implementation of legal deposit, these technological issues and the associated (managerial) problems are of considerable concern (Lariviere, 2000). New technologies have provided many possibilities and advantages in the organisation of and access to legal deposit publications and information in print medium. However, in the realm of the legal deposit of electronic publications the implications of new technologies are most noticeable specifically with regard to preservation strategies and the properties and durability of storage media (Lor, Britz & Watermeyer, 2006: 42; Muir, 2001: 661; Woodyard, 2000).

### **3.4.6 Legal factors**

Legal requirements such as contract, employment and labour issues usually relate to economic issues in general businesses (Gordon, 2005: 297; Williams & Johnson, 2004: 51). Although all of these issues are relevant in the libraries as well, libraries are also directly concerned with the legal issues surrounding copyright (Gordon, 2005: 196). To fulfil both legal deposit's preservation and access purposes, legal deposit legislation and

international conventions such as the Berne Convention make provision for the use of copyright material without recompense for the copyright owner, as long as this does not prejudice the economic interests of the owner of the work (Cornish, 1998b: 104; Lariviere, 2000). The balance between these two factors is of critical importance if a legal deposit system is to function effectively.

#### **3.4.7 Political factors**

Political decisions can influence the economy, society and laws of a country and therefore directly affect the way in which organisations run their business (Williams & Johnson, 2004: 42). In libraries, where this influence is most keenly felt when they have to compete with other services for money (Gordon, 2005: 248), political and related economic developments are directly responsible for many of the financial constraints that make it difficult for legal deposit institutions to meet their obligations to the full (Letshela & Lor, 2002; Lor, 1995: 102; Rugaas, 1990: 48).

### **3.5 *Summary***

This chapter provided the necessary background to and understanding of the stages and practical activities underlying the process of legal deposit, the need for procedures for monitoring compliance with legislation, and the external and internal factors that influence the way in which legal deposit is implemented in a country. The complexity and wide range of issues discussed clearly indicates that quite a number of stakeholders will be involved in the implementation of a system of legal deposit, each with their own interests and responsibilities. Chapter 4 discusses the roles of the various people and institutions involved in this process.

## 4 Role players in the legal deposit process

### 4.1 Introduction

The implementation of legal deposit and the enforcement of the relevant legislation in a country is not a simple process that happens as a matter of course. Appropriate legislation and fully functioning processes, as discussed in the previous two chapters, form a firm foundation for a legal deposit system, but goodwill and trust and a working consensus between role players are also crucial if the arrangement is to be successfully implemented. The various stakeholders in the legal deposit process therefore have to be identified, and their role and interests taken into consideration, as the different people and institutions involved in the process directly impact on the effective and efficient management of the system, as well as the extent to which legislation is adhered to.

It stands to reason that the places of legal deposit together form one of the main role players in a legal deposit scheme. They are held responsible for actually implementing legal deposit legislation and for promoting awareness and support for legal deposit as a means of preserving and appreciating a nation's cultural heritage (Lor, 2003b: 147). Depository institutions generally agree that maintaining an archive of a nation's published output is essential and that the cultural and long-term research values endorse the significance of legal deposit (Byford, 2002: 6; Ratcliffe, 1999: 75).

Publishers are another main role player, as they are primarily held responsible for delivering their material for legal deposit in most countries where legal deposit is implemented (Lariviere, 2000). From the publishers'

point of view, national deposit collections are one of the greatest legacies of a country, and the principle of preserving the nations' cultural heritage in a stable and organised environment, elicits little opposition. (Davies, 1998: 160; Whitaker, 2002: 23). Often, however, in the practical execution of the various processes of implementing legal deposit legislation, depository institutions and publishers may have diverging opinions.

The state, as an additional role player, has far-reaching functions as creator and overseer of the system. As the ownership of legal deposit material remains with the state (Jasion, 1991: 14), the government of a country is responsible for establishing the laws and regulations that govern the implementation of legal deposit and associated practices.

Statutory bodies, professional associations and other similar types of organisation are further examples of groups that play a supporting role in the practical execution of legal deposit.

Unless these various role players and the parts they play in the legal deposit system are clearly understood, an investigation into the practical implementation of the process and its accompanying problems cannot be conducted successfully. This chapter therefore presents a picture of the persons and organisations that have a stake in both the general legal deposit arena and in South Africa specifically. It furthermore looks at the ways in which these role players fulfil their individual functions or otherwise influence the execution and accomplishment of legal deposit in their various capacities.



## ***4.2 Depository institutions as role players in legal deposit***

### **4.2.1 Introduction**

Various libraries and/or organisations such as national libraries, regional libraries, university libraries, national archives, and so forth can be designated as national legal deposit institutions (Jasion, 1991: 12; Lariviere, 2000). As such, these institutions will be governed, with some exceptions, by specific legal deposit legislation enacted by the national legislature, with associated responsibilities relating to the implementation of legal deposit in that specific country.

National libraries have played diverse roles in various countries (Brophy, 2001: 15; De Beer, 2003: 69) but have always stood as national symbols of the written published culture of a nation (Feather, 2003: 175; Lor, 1997). Legal deposit forms the basis for acquiring a national collection of material and in most countries with a system of legal deposit it is largely national libraries, some with histories stretching back for a number of centuries, that are ultimately concerned with the implementation of legal deposit (De Beer, 2003: 69; Feather, 2003: 175; Rugaas, 1990: 41). It is within this context that the role of the national library as an exemplary example of a legal depository institution will be discussed.

### **4.2.2 The national library as a depository institution**

The national library is a “cultural institution which is shaped by the society which needs and nurtures it” (Lor, 1997). The development of national libraries followed diverse patterns in different countries, but most of these institutions originated with the basic functions of collecting,

preserving and making available publications, and only much later of creating records of these publications i.e. national bibliographies (Brophy, 2001: 16; Line, 1995: 1; Matheson, 1997: 16). National libraries have also relied to a large extent on some form of legislation to ensure the preservation and the sharing of the national published history and culture.

In his seminal work, *Guidelines for national library legislation* Lor (1997) proposes that national library legislation should, *inter alia*, include the following functions:

- i. “to build up as complete a collection of material emanating from or relating to a country as appropriate”
- ii. “to render bibliographic services and serve as the national bibliographic agency”
- iii. “to provide access to its collections of material ...”

These three recommended functions of national libraries correspond directly with the three core objectives of the legal deposit system and practice, namely preservation, control and access (Jasion, 1991: 7, 16; Lariviere, 2000; Lor, 1995: 96, 97) as discussed in chapter 2, section 2.2.

#### **4.2.2.1 Preservation**

Preservation and storage of material is the main and continuous theme of legal deposit (Jasion, 1991: 7; Lor, 1995: 97). Legal deposit is regarded as the main instrument for building up and preserving a nation’s intellectual and cultural heritage (Council of Europe/EBLIDA, 1998) and even where legislation does not necessarily specify that legal deposit material should be preserved in perpetuity, it is often seen as a “moral responsibility” to do so (Lor, 1995: 97).

Preservation is also the one aim and function of a national library that has remained constant over time (Brophy, 2001: 19; De Beer, 2003: 74; Line, 1995: 2). National libraries have to deal with many difficulties to be successful in acquiring the material subject to legal deposit, and face with enormous preservation challenges, especially with the advent of electronic publication (Lariviere, 2000; Lor, Britz & Watermeyer, 2006: 43; Muir, 2001: 661). However, the endeavour is of critical value (Scott, 2002). National cultural identity depends to a great extent on the survival of cultural material and without this, not only would there be gaps in the “fabric of the nation’s history” (Ratcliffe, 1999: 75), but also the works of literature and scholarship that are the “abiding hallmark of our civilisation” (Davies, 1998: 160) would be lost.

#### **4.2.2.2 Control**

Acquiring published material by means of legal deposit is the basis for producing a record of a nation’s published heritage in the form of a comprehensive national bibliography (Haddad, 1999; Lariviere, 2000; Lor & Geustyn, 2001). National bibliographies provide information on the current state of publishing within a country, and their records are made available locally as well as internationally in various catalogues, databases and directories (Beaudiquez, 2002; Lor, 1995: 96).

The creation of a national bibliography thus conforms to and supports the objectives of Universal Bibliographic Control (UBC). UBC, a programme that was started in the early 1970s under the auspices of the International Federation of Library Associations and Institutions (IFLA), was practically implemented by requiring firstly that each country participating in the programme identify and describe its own publications, and secondly, that all countries follow an international standard for bibliographic description of those publications to facilitate the exchange of information (Parent,

2004: 70). The success of the UBC programme has been seen in the growth of national bibliographies due to a large extent to the development of various International Standard Bibliographic Descriptions (ISBDs) for all formats of material and their use in many countries as the basis for national cataloguing codes (Law, 1998: 296; Parent, 2004: 70, 71).

Lor (1997) in his *Guidelines for legislation for national library services* suggests that the comprehensive bibliographic recording of publications of a country should be one of the functions of a national library. Although the compilation of the national bibliography is not a function solely of the national library in all countries (Knutsen, 2006: 6), and although some authors believe that this function may decline in the electronic environment (Phillips, 1997: 48), in the majority of countries discussed in the literature the creation of official national bibliographies of current materials and their role as an instrument for achieving bibliographic control are integrated into the mission of national libraries (Beaudiquez, 2001; De Beer, 2003: 79; Madsen, 1999). It is a mission that is “assigned to them by legal deposit” (Beaudiquez, 2001) and legal deposit is universally acknowledged as being essential for the success of the creation of a national bibliography (Bourne, 1993: 100; Crews, 1988: 575; Lor & Geustyn, 2003).

#### 4.2.2.3 Access

Providing access to published material is one of the fundamental prerequisites of a legal deposit system (Lariviere, 2000; Lor, 1995: 97). Access can be provided in many ways, ranging from shared online catalogues, national and international networks and access through loan or copies of publications to any scholar or researcher worldwide (Council of Europe/EBLIDA, 1998; Lariviere, 2000). This universal access is in

accord with the principles of the Universal Availability of Publications (UAP) programme.

The UAP programme was a particularly British-led activity, created in 1980 under the leadership of Maurice Line through the British Library's interlending and document supply activities, with successive Directors-General of the British Library's Lending Division following suit (Law, 1998: 297; Parent, 2004: 72). Parent (2004: 71) contends that the success of the UBC programme (see 4.2.2.3) contributed to the development of the UAP programme. UBC provided users with the means of identifying material throughout the world, but this created frustration at the inability of obtaining copies of items. The concept behind universal access is to provide "the widest possible availability of published material, wherever a user needs it and in the format preferred" (Parent, 2004: 70).

National libraries are encouraged to make specific provision in their legislation for aims and functions that include making available for use their national collection of resources and facilitating access to these resources within the specific country and abroad (Lor, 1997). The success of the UAP programme depends to a great extent on the cooperation of the national bibliographic agencies around the world (Parent, 2004: 72) and it is in this capacity as bibliographic agencies that national libraries are directly concerned with access to material. Legal deposit legislation is needed to ensure that copies of national publications are preserved, which in turn means that, for the purposes of this discussion, national libraries take responsibility for providing access to these publications through the creation of bibliographies and/or catalogues and for supplying them by loan or copying to whomever may need them locally or internationally (Cornish, 1998c: 481).

### ***4.3 Publishers as role players in legal deposit***

#### **4.3.1 Introduction**

Publishers acknowledge that establishing a national archive, where publications deposited with the designated institutions are preserved in a stable and organised environment for the benefit of future generations, is a valuable concept (Davies, 1998: 160; Graham, 1994: 153; Muir, 2001: 661), and therefore on the whole they support the “aspirational ideals” behind legal deposit (Byford, 2002: 7) . However, many factors such as the costs and benefits of various publishing endeavours, and the types, amount and value of publications, all impact on publishers’ approaches to the delivery of material subject to legal deposit, and the closer publishers are consulted regarding all matters affecting legal deposit, the more effective the system is likely to be (Davies, 1998: 165). This study involves an investigation into the legal deposit of books. It is therefore necessary to provide background information on the world of book publishers as crucial role players in legal deposit, with the aim of acquiring an overall picture of the context within which this study is being conducted.

#### **4.3.2 Books and book publishing**

There is general agreement in the industry that book publishing is not, and has never been, a conventional business; it is both an industry and a vocation, with a vision of fulfilling a social responsibility within the culture and community of which it is a part (Epstein, 2001:4; Stassen, 2002). Legal deposit as a means of ensuring a nation’s published heritage, although based in legal statute, can appropriately be considered a form of such a social responsibility.

For many centuries, books have formed the core of civilised life (Shi, 2002). Books and other printed media were until recently the most important communicators of our cultural memory, our knowledge, and of our feelings (Shi, 2002; Stassen, 2002). In spite of the proliferation of electronic publishing, the production of print material shows no sign of decreasing (Merril, 2000: 21), or the book of “nearing the end of its life cycle” (Watson, A.F., 2002: 26). All role players in the book trade acknowledge that the book business is faced with the realities of comprehensive transformation and competition, but the general opinion is that it can and should engage in the many opportunities for improvement and innovation that are afforded within this environment (Epstein, 2001: 2; Freeman, 2005: 17; Merrill, 2000: 4; Shi, 2002).

Many major developments have influenced the book publishing business over the years. Three of the most significant are the advent of new technologies, the emergence of large conglomerates and the (contrasting) development of smaller publishing concerns.

#### **4.3.2.1 *New technology***

With the advent of the Internet and the World Wide Web, publishers reacted much the same as other industries; they were ‘dazzled’ by technology (Lichtenberg, 2002: 25) but also used it in many ways. More and more material is being placed online. Text may be scanned, digitised and stored so that copies are available on demand. Archival material is published in digital form, for example the Digital Vault Initiative of Bell and Howell which includes books, periodicals and newspapers (Hane, 2001). Online versions of scholarly journals have become a common phenomenon. Trade publishers are increasingly publishing reference and other material online, and e-book publishing and digital reading are becoming widespread activities (Mantell, 2002: 34; Reid, 2002: 12).

In addition, there are many examples of (online) partnerships and alliances between businesses, publishers, libraries and academic institutions. NetLibrary, which was the pioneer in providing access to full text eBooks in a library's eBook collection (Merril 2000: 15), and the latest Google initiative of digitally scanning the book collections of large libraries (Milliot & Albanese, 2004: 7) are two good examples of such cooperation concerning books specifically.

Many countries have updated or are in the process of updating their legal deposit legislation to include electronic publications, and issues surrounding the deposit and preservation of electronic materials is a major topic of discussion (Beagrie, 2003; CDNL, 1996; Muir, 2001; UNESCO, 2003). One of the main issues of concern to both depository institutions and publishers is that of copyright. The protection of copyright is at the core of the publisher's livelihood (Davies, 2001: 33) and various legislative as well as practical/economic means have to be found to address this difficult question in the electronic legal deposit environment (Bury, 2003:12; Ceeney, 2003: 274; Scott, 2002).<sup>5</sup>

#### *4.3.2.2 Emergence of large companies*

Large media conglomerates have over the years become an imposing factor in the publishing world as the consolidation of publishing houses has increasingly been taking place, especially in the area of fiction, where the majority of titles are produced by divisions of giant corporations (Rose, 2002: 42). Many large conglomerates have been selling off their reference, professional and educational divisions in order to concentrate on (consumer) publishing. This trend is arguably a threat to the future of scholarly publishing, but the opposite is also true, as large companies are

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<sup>5</sup> See further discussion on copyright in general under section 4.4.4 of this chapter.



being formed with a specific focus on publishing reference and other similar educational media (Merril, 2000: 7).

The literature studied yielded no references to legal deposit and associated problems or issues specifically from the point of view of large publishing houses. However, the costs associated with delivering multiple copies of publications to depositories can realistically be assumed to be absorbed by general promotion or marketing overheads within large concerns. Although publishers generally agree on the benefits of preserving the published heritage (Davies, 1998: 160), as mentioned above, many individuals in the publishing business do have a problem with the principle of providing multiple free copies of publications to various legal deposit institutions in a country, as this is felt to be an unfair taxation/financial imposition and an outdated practice (Graham, 1994: 131; Whitaker, 2002: 25).

#### ***4.3.2.3 Growth of independent publishing***

The emergence of alternative publishing models is another trend that is currently appearing in the book-publishing world. Decision-making processes are often slow in large organisations, and so smaller publishing houses, which have a different approach to the publishing process, thus have definitive advantages (Kean, 2002: 26). Smaller publishers do not harbour preconceived ideas about what the markets want and because of their size can react to markets more quickly (Kean, 2002; 27; Wittenberg, 2001: 3); they develop close ties with authors, have a clear focus on the needs and preferences of their clients, and very often let authors have a say in marketing plans, tours, interviews, book design and so forth (Rose, 2002: 43; Wittenberg, 2001: 3); they often dispense with aspects such as advances against royalties and rather put money into marketing and promotion which attracts authors. This lower cost base means that smaller

publishers can carve out a presence in niche markets (Kean, 2002: 27; Rose, 2002: 41).

However, the costs associated with depositing books to more than one depository institution become a practical issue for smaller publishers with smaller print runs, and may realistically influence their willingness to support the practice of legal deposit even if it is based on enforceable legislation (Davies, 1998: 165; Hattingh & Hamman, 1998: 113; Whitaker, 2002: 25).

### **4.3.3 The role of printers in the publishing industry and in legal deposit**

“Without printers there are no books” (McDowell, 1997: 35). Publishers depend on printers for advice concerning many aspects of the production of books such as format, paper quality, binding and so forth, all of which may affect the price of a book. Reliability in terms of quality and timeliness are also important issues (IPG, 2005). A good relationship is thus crucial for the book publisher. Printer/publisher relationships should ideally be seen as partnerships in which both parties are mindful of their dependence on each other for their success in business.

Printers can play an important role in implementing legal deposit, as they handle the books even before publishing. In the case of smaller, private concerns especially, well-informed printers could be a source of information for these publishers regarding their legal deposit obligations. Printers can also be held responsible for depositing books themselves as is demonstrated by countries such as Fiji and Madagascar, where legislation compels printers to supply copies of publications as legal deposit (Jasion,

1991: 8), and France, where both publishers and printers are liable to deposit (Jasion, 1991: 8; Lariviere, 2000).

#### ***4.4 The state as role player in legal deposit***

##### **4.4.1 Introduction**

Preserving the cultural and intellectual heritage of a country by means of legal deposit is a matter of public interest, but it is also a responsibility of the state (Jasion, 1991: 14; Russon, 1999). It is firstly of utmost importance that national libraries and other depository institutions receive the recognition they deserve from the state for this service so that adequate governmental funding and (political) support are supplied in for libraries to adequately perform the mandate assigned to them.

The state is furthermore responsible for producing the laws and other official programmes of a country. Many of the issues pertaining to legal deposit are dealt with in specific legislation such as National Libraries Acts and Legal Deposit legislation. However, many other laws, regulations and/or policies may primarily function for non-library or non-legal deposit purposes but have an important effect on the ways in which the legal deposit functions of depository institutions are implemented. Some of the more significant areas where state decisions and/or involvement influence the manner in which the legal deposit responsibilities of a country are executed will now be discussed.

##### **4.4.2 The Constitution**

The constitution of a country is the supreme law of that country and can thus be regarded as the set of rules by which the country is governed

(Ebrahim, 1998: 258). When looking at legislation concerning legal deposit specifically, the constitution has the most significant influence as it doubtlessly contains clauses that will have a direct effect on the issues contained in legislation and the implementation thereof (Council of Europe/EBLIDA, 1998). As a form of written law, the constitution expresses the will of the state and the state is thus compelled to use its vested constitutional powers to enforce compliance with legal deposit legislation when the situation arises (Lariviere, 2000).

#### **4.4.3 Freedom of expression and free access to information**

Article 19 of the Universal Declaration of Human Rights gives everyone “the right to freedom of expression” including “the right to seek, receive and impart information and ideas through any media regardless of frontiers” (United Nations, 1948). The protection of these rights by means of legislation in a country has implications for both libraries and publishers. The assumption that libraries are created for the benefit of their use to communities so as to “further their rights of access to information and ideas” (Council of Europe/EBLIDA, 1998) is a generally accepted principle. The actualisation of the right to speech (i.e. expression) and (the use of) information also presupposes the existence of an extensive and diversified publishing industry within a country (Oliphant, 2000: 109).

Freedom of expression and free access to information, are two related areas of legislation that have direct connection with legal deposit (Lariviere, 2000; Lor, 1995: 96). Legal deposit legislation ensures the preservation of a country’s publishing output, guarantees researchers and citizens of a country access to the information, and thus presupposes the free use of this information. In doing so it recommits itself to the

particular exposition on this issue contained in the Declaration of Human Rights (Lariviere, 2000).

#### 4.4.4 Intellectual property rights and copyright

Copyright is the intellectual property right that grants its holder(s), for a specific period of time, the sole legal right to regulate the use and copying of their original work(s) and is controlled by law (Oppenheim, 1999: 56, 59). For publishers and authors, the illegal copying of their work and the subsequent possible commercial losses that this may entail, are therefore of crucial concern. Library and information professionals play a unique role when it comes to copyright, as they are placed between the copyright owners on the one hand and the need for users to access the works on the other (Pedley, 2000: 9). Most copyright legislation takes this into account, allowing for 'fair use/fair dealing', whereby users may make copies for the purposes of research or private study in a manner that will not unfairly deprive the copyright owner of any income from the work. 'Library privilege' is another system that provides libraries protection against copyright infringement under specific circumstances (Pedley, 2000: 16,17,19).

Intellectual property rights and copyright legislation is changing rapidly in order to keep up with technological change (Pedley, 2000: 1). Two recent international treaties, for example, that concern equality of access to information, and thus affect library services, are the GATS 1994<sup>6</sup> and the TRIPS 1995<sup>7</sup> agreements of the World Trade Organisation (WTO)

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<sup>6</sup> GATS (General Agreement on Trade in Services) is concerned with the trading of services and the liberalisation of such trade - *inter alia* to establish a minimum set of international standards for the protection of digital material.

<sup>7</sup> TRIPS (Trade Related Aspects of Intellectual Property Rights) is concerned with the trading of intellectual property rights. Copyright is included in Part 11 of the TRIPS agreement.

(Rikowski, 2005: 35, 187). The European Union Copyright Directive attempts to harmonise copyright legislation across Europe, specifically pertaining to electronic publications. Some of the directives, entailing exemptions involving the fair dealing privilege and accessibility and communication of information to the public, have direct implications for libraries with regard to document delivery and availability of (especially electronic) publications (Cornish, 1998(a); Holman, 2001: 8; Prowse, 2004: 103).

Material received on legal deposit remains subject to copyright. Copyright and the adherence of a country to the relevant international intellectual property rights conventions such as those mentioned above, are therefore some of the most important issues involved in the general execution of the duties of depository institutions (Council of Europe/EBLIDA, 1998; Lor, 1997; Scott, 2002). Issues similar to those experienced in libraries in general are encountered in the legal deposit environment. Physical and remote access to publications for users and the need to make copies for preservation purposes and for future use are the two main current issues in the print environment, and are exacerbated in the electronic publication setting (Cornish, 1998a; Lariviere, 2000). Copyright legislation in most countries provides legal deposit agencies with specific exemptions pertaining to their need to preserve deposited material and to provide access to the material, but it remains a challenge for legal deposit institutions to ensure that the necessary exceptions for their specific circumstances are consistently included in such legislation (Lariviere, 2000; Scott, 2002).

#### **4.4.5 Creation of National Information Policies**

National information policy is: "a series of decisions by a national government designed to encourage better information infrastructure" (Oppenheim, 1994: 133). Such policies are still comparatively new and underdeveloped in many countries, but the general consensus is that the establishment of a well-developed national information infrastructure by means of an information policy is desirable for any country, as it ensures the effective implementation of information services, systems and resources (Lor, 1997; Oppenheim, 1998: 46, 65).

National libraries and other legal deposit institutions form part of the greater information arena within a country and are dependent on government decisions and (financial) support (Oppenheim, 2002: 2). Therefore, although legal deposit is the main mechanism by which a country's national published heritage is built up, it is only part of, and cannot take the place of, national information policies (Council of Europe/EBLIDA, 1998).

#### **4.4.6 Creation of National Book Policies**

Legal deposit structures can also not take the place of a national book policy (Council of Europe/EBLIDA, 1998). A national book policy is a "political commitment to consider books as part of a cultural economical strategically sector" (UNESCO, 2003). The aim of a national book policy is to develop and maintain a healthy book industry within a country with the consensus and active participation of both the state and the private sector. Books form a considerable segment of the published cultural heritage of a country and need to be preserved by means of legal deposit, and so an effective system of managing the world of books will contribute

to achieving this aim. A specific legal framework incorporating all measures concerning books is thus needed, and the support of the government in facilitating and establishing a national book policy is therefore essential (Momoh, 1997; UNESCO, 2003; Wafawarowa, 2001: 11).

## **4.5 *Role players in South Africa***

Role players in legal deposit schemes over the world show many similarities, but differ according to the particular legislative, social, economic, political and other factors affecting individual countries. The next section discusses the roles played by the various stakeholders within the specific South African legal deposit context.

### **4.5.1 South African depository institutions as role players**

The Legal Deposit Act, Act No. 54 of 1997, as discussed, provides for a number of depository institutions in South Africa. Five libraries have been designated as repositories for books and other material, namely the National Library of South Africa (Pretoria Campus and Cape Town Campus), Manguang Library Services (formerly Bloemfontein Public Library), Msunduzi Municipal Library (formerly Natal Society Library Pietermaritzburg), and the Library of Parliament in Cape Town. The National Film, Video and Sound Archives in Pretoria is designated for certain categories of non-print materials, and one place in each of the nine provinces will serve as an Official Publications Depository.

#### **4.5.1.1 *National Library of South Africa (NLSA)***

Until 1999, for historical reasons, South Africa had two national libraries, namely the South African Library in Cape Town and the State Library in



Pretoria. On 1 November 1999 these two libraries were amalgamated to form a dual-site (Cape Town and Pretoria) national library known as the National Library of South Africa (NLSA, 2006).

i. *National Library of South Africa: Cape Town Campus*

The South African Library was founded in 1881 and is the oldest library in South Africa. According to the (British) Copyright Act no. 2 of 1873, and affirmed by the Books Registry Act, Act no. 4 of 1888 the South African Public Library in Cape Town was designated as the legal deposit library for the Cape Colony (Partridge, 1938: 188; Willemse, 1962: 87). From 1916 its extended legal deposit status entitled it to receive, together with three other libraries, all printed items published in the country according to the Patents, Designs, Trade Marks and Copyright Act (Act 9 of 1916) (Willemse, 1962: 99).<sup>8</sup>

ii. *National Library of South Africa: Pretoria Campus*

The *Staats-Bibliotheek der Zuid-Afrikaansche Republiek* (State Library of the South African Republic) was constituted in 1887. In 1893 a public library was founded under the wing of the *Staats-Bibliotheek* and from then until 1964 the State Library performed a dual role as public library and national library (NLSA, 2005). Legal deposit has operated since 1887 in the (then) Transvaal when a law was passed which provided for the deposit of works to the Registrar of the *Volksraad van die Zuid-Afrikaansche Republiek* (Partridge, 1938: 188; Willemse, 1962: 92). ). After 1916 the State Library/Public Library was designated as a legal deposit library according to the Patents, Designs, Trade Marks and Copyright Act (Act 9 of 1916) (Willemse, 1962: 99).

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<sup>8</sup> For an overview of legal deposit legislation and the current status of legal deposit in South Africa, refer to Chapter 2, section 2.3.5.

#### **4.5.1.2 *Manguang Library Services, Bloemfontein***

The Bloemfontein Public Library is the main library of the Manguang Local Municipal Library Service and was founded in 1875. A free library service to the public was established in 1946 and in 1973 the library became part of the Provincial Library Service of the (then) Orange Free State (Bloemfontein Online, 2006). It was granted the status of a legal deposit library in 1916 under the Patents, Designs, Trade Marks and Copyright Act (Act 9 of 1916) (Willemse, 1962: 99).

#### **4.5.1.3 *Msunduzi Municipal Library, Pietermaritzburg***

The Natal Society Library (Msunduzi Municipal Library) was founded in 1851 and has provided a public library service ever since. It became a free, rate supported library in 1967 (National Archives and Records Service of South Africa, 1999). Legal deposit was first implemented in Natal under the (British) Copyright Act no. 9 of 1896 superseded by Act no. 17 of 1897, which stipulate that two copies of various types of material were to be delivered to the Colonial Secretary. This situation continued until after the establishment of the Union of South Africa in 1910. In 1916 legal deposit privileges were granted to the Public Library in Pietermaritzburg by the Patents, Designs, Trade Marks and Copyright Act (Act 9 of 1916) (Willemse, 1962: 99).

#### **4.5.1.4 *Library of Parliament***

The Library of Parliament provides a library and information service to members of parliament, its committees and all other parliamentary structures (Parliament of South Africa, 2006). Its history can be traced back to 1854, when the Legislative Council and the Legislative Assembly each had its own small library. These two libraries were merged to form a joint library, the Library of Parliament, in 1885 (Spotlight on libraries, 2004). Legal deposit privileges were granted to the Library of Parliament

in 1950 under the Copyright Amendment Act (Act 22 of 1950) (Willemse, 1962: 100).

#### *4.5.1.5 National Film, Video and Sound Archives*

International guidelines regarding the preparation and establishment of legal deposit legislation specifically mention the importance of including audio-visual material in the legislation (Lariviere, 2000). In South Africa the Legal Deposit Act provides for incorporating all types of publications including audio-visual material for legal deposit, by using the generic term “document” throughout the Act. “Document” is defined as “any object which is intended to store or convey information...” in any format and through any medium (South Africa, 1997). The Act designates the National Film, Video and Sound Archives (NFVSA) as a place of deposit for audio-visual material.

NFVSA is a sub-directorate of the National Archives and Records Service of South Africa, and is the only national institution of its kind in South Africa. It is also one of only a few of its kind internationally which preserves all three formats, film, video and sound material (National Archives and Records Service of South Africa, 2005). In keeping with the overarching purposes of legal deposit, the aims of the NFVSA pertaining to legal deposit are the following (National Archives and Records Service of South Africa, 2005):

- i. to collect audio-visual and related material that was made in or about South Africa
- ii. to preserve the audio-visual heritage of South Africa, and
- iii. to make the audio-visual heritage accessible to all South Africans.

#### 4.5.1.6 *Official Publications Depositories (OPDs)*

Government publications are an important and essential source of current information in a country (Carpenter, 2003: 54). It is therefore widely acknowledged that government publications should be included in national legal deposit legislation in order to achieve the legal deposit aims of comprehensiveness and exhaustiveness (see discussion under section 2.4.9.3 of chapter 2), and to guard against depriving a nation of an important component of its cultural heritage (Jasion, 1991: 14; Lariviere, 2000). Within the South African context especially, with its political “history” of suppression of information, access to government information is crucial for democratic decision-making (Baker, 2004: 4; Lor & van As, 2002: 102). By introducing Official Publications Depositories (OPDs) legal deposit legislation provides for the preservation of and access to government publications in South Africa (South Africa, 1997).

The idea of establishing OPDs in South Africa was influenced by the American Federal Depository Library Program (Baker, 2004: 4; Lor, 2003a: 6). This programme covers all publications of the federal government excepting state and local governments, and federal depository libraries are open to the public free of charge (Lor, 2003a: 6). The practical execution of this idea in South Africa was facilitated to a great extent by the constitutional changes of 1994 which brought about many paradigm shifts in government attitudes towards the way in which government information is organised and made available to the public (Lor & Van As, 2002: 102). Two of the most significant factors within this context that gave rise to the establishment of OPDs are (Lor & Van As, 2002: 103; Baker, 2004: 4):

- i. The Constitution itself which a) makes provision for nine provinces with wide legislative and executive authority and b) ensures that access to information, including information held by the state, is a

right provided for in the Bill of Rights in Chapter 2 of the Constitution (South Africa, 1996); and

- ii. Changes in the style of government decision-making towards greater transparency and public participation, demonstrated by the Promotion of Access to Information Amendment Act (South Africa, 2002b); although OPDs are not specifically mentioned in the Act, if it is read in conjunction with the Legal Deposit Act, it is clear that OPDs play an important part in ensuring the practical execution of access to government information (Baker, 2004: 5).

The Legal Deposit Act makes provision for the establishment of at least one OPD in each of the nine provinces, which entitles the appointed depository to receive a copy of every official publication. There is no limit on the number of OPDs that may be established and existing places of legal deposit may also be designated as OPDs without losing their right to receive materials other than official publications (Baker, 2004: 5; Letshebe & Lor, 2002; Lor & Van As, 2002: 115). An “official publication” is defined in section 1(vi) of the Legal Deposit Act as “a document published by an organ of national, provincial or local government, a parastatal organisation or any other institution listed as a public entity in terms of section 3 of the Reporting by Public Entities Act 1992 (Act 93 of 1992)” (South Africa, 1997). The general duties of OPDs are the same as those of other depositories as set out in section 7 of the Act, namely to receive, accession, retain and preserve; to catalogue; and to ensure freedom of access to documents.

## **4.5.2 Publishers as role players in legal deposit in South Africa**

### **4.5.2.1 Introduction**

In South Africa, the Legal Deposit Act dictates that the publisher, as “the person or body, whether public or private, which publishes and distributes a document” (South Africa, 1997), is responsible for depositing publications subject to legal deposit. An investigation into the legal deposit system and its implementation in South Africa therefore requires an understanding of the current publishing scenario in the country, to ascertain what types of publisher are the potential depositors of legal deposit material, and to try and understand the context and the practical realities within which these publishers function. As this study concerns the legal deposit of books specifically, the following section accordingly provides a condensed view of what the South African book-publishing scene looks like.

### **4.5.2.2 Book publishing in South Africa**

The history of book publishing in South Africa is inextricably linked to politics, particularly the influence of colonialism, the power and role of apartheid, and the transition to democracy (Galloway, 2002: 204; Mpe & Seeber, 2000: 15). All these influences can be seen in an allegiance to empire in much of colonial English literature, the loyalty to language and Afrikaner nationalism in Afrikaans writing, the effect of religious conversion and “colonial domestication” (Oliphant, 2000: 110) that featured strongly in indigenous literature, and the post-apartheid South African transformation that has resulted in new reading markets and a publishing industry characterized by a wide variety of publishers (Hendrikz, 2002: 75).

Like its international counterparts, the South African book publishing industry is currently contending with the problems posed by new technologies, as well as with the mergers and acquisitions that took place especially during the 1990s and completely changed the face of the industry (Galloway, 2002: 12; Mpe & Seeber, 2000: 30,31). In addition, it suffers constraints such as a small reader market, multi-lingualism, and overseas competition, as well as the after effects of the challenging post-apartheid transition (Galloway, 2002: 216; Niewoudt, 2002: 3). In spite of these potentially unfavourable factors, the South African publishing industry is nevertheless still regarded as a powerful “institutional apparatus’ (Oliphant, 2002: 107), an indispensable component of democratic life in our society (Wafaworowa, 2001), and a key industry in the South African economy (Hendrikz, 2002: 75).

South Africa has a sophisticated and competent book industry that produces books of high quality covering a wide range of subjects (Hendrikz, 2002: 75; Jacobson, 2006: 18; Perold, Chupty & Jordaan, 1997: 7). Although not all publishing houses concentrate on publishing only one type/category of material and many overlaps occur, book publishing in South Africa can be divided broadly into the following categories:

- i. *General book/trade publishing*: General publishers publish a wide spectrum of books rather than books for one particular segment of the market. This represents a relatively small sector in the publishing field and includes fiction, non-fiction, reference works, literary publishing, children’s literature as well as poetry, plays, and short stories (Van Rooyen, 1996: 5,6). General trade publishing is dominated by imports; only around 20-25% of the books sold in South Africa are by local publishers and very few trade books are published in the indigenous languages (Faasen, 2003).

- ii. *Academic/Tertiary publishing*: Foreign publishers have a 60% share of the tertiary book market. Most books in this category are still imported from the United States and Britain and South African authors often have to publish with, or buy rights from international publishers (Galloway, 2002: 211; Van Rooyen, 1996: 5).
- iii. *Educational/School publishing*: Publishing for schools makes up the bulk of publishing activity in South Africa (Faasen 2003; Van Rooyen, 1996: 5). The range of educational material being published also crosses over into material published for non-institutional, non-formal and informal sectors for example literacy material, adult education material and so forth (McCallum, 1996: 55).
- iv. *Independent publishing*: Echoing the international trend (see section 4.3.2.4 of this chapter), upcoming smaller, independent publishers which are more in touch with the needs of their reading market and are capturing niche markets, are becoming more and more of a feature on the South African publishing scene (Stassen, 2002). Afrikaans book publishing occupies a special niche as a strong indigenous accomplishment (Galloway, 2002: 208; Stassen, 2002). One of the biggest areas to improve on (both in general trade publishing and smaller operations) is publishing in the indigenous African languages. This is one of the largest potential markets in South Africa and more and more black writers who formerly wrote in English are developing an interest in writing in their own languages (Jacobson, 2006: 18; Ntshangase, 1996: 48).



### **4.5.3 The state as role player in legal deposit in South Africa**

The state in the broader sense and the current ruling government on a narrower level have a major role to play in creating the framework in which legal deposit is practically administered (see also section 4.4.1 of this chapter). In spite of many new legal and other structures recently established in South Africa, the country still has to contend with the realities of a society with an inheritance of severe deprivation with regard to information work and information provision for the broader spectrum of its people. Inadequate information and communications structures and lack of financial resources are areas of critical concern that severely constrain the capacity of the South African government to provide information to the people (GCIS, 2000). In many areas, however, admirable progress has been made to lay foundations for future effective information provision and other relevant services. Legal deposit is part of the information infrastructure of a country, and in this context is directly affected by such developments. Some examples of how and where the state directly or indirectly influences the implementation of legal deposit in South Africa will now be discussed.

#### **4.5.3.1 *The Constitution***

South Africa's first democratic constitution came into force on 4 February 1997. As a political agreement on what the most basic law in the land should be, the South African Constitution is regarded as one of the most advanced in the world (Ebrahim, 1998: 3). The Constitution describes the framework in which library and information services, and by implication legal deposit, in South Africa can be managed (Hendrikz, 2002: 73). The sections of the Constitution that pertain directly to legal deposit (and to publishers as providers of legal deposit material), are section 16 concerning Freedom of Expression, and section 32, concerning Access to

Information (South Africa, 1996). In addition, the Constitution created the nine provinces of South Africa, which prompted the provision in the Legal Deposit Act for an OPD in each province.

#### **4.5.3.2 *Access to information***

The Promotion of Access to Information Act No. 2 of 2000 (as amended by the Promotion of Access to Information Act No. 54 of 2002) gives effect to the constitutional right of access to information held by the state and information held by any other person that may be required for the exercise or protection of any rights (South Africa, 2002b). Without free access to documents published by either the government or private citizens in a country, freedom of information is limited and incomplete (Lor, 1995: 96). The significance of the Promotion of Access to Information Act should therefore not be underestimated. Departing from the pre-1994 dispensation, the Act represents a significant phase of the new democracy namely empowering the people by providing them with a statutory mechanism to be used in order to access crucial information (De Lange, 2005). Legal deposit ensures that South Africa's publishing output is preserved, and, in accordance with the above Act, section 7.1(c) of the Legal Deposit Act guarantees freedom of access to the documents supplied and the information contained in the documents (South Africa, 1997).

#### **4.5.3.3 *Intellectual property rights***

Copyright in South Africa is controlled by the Copyright Act, Act no. 98 of 1972 with a recent amendment to the Act that provides for "the nature of copyright in sound recordings and to provide for matters connected therewith" (South Africa, 2002a). Copyright and the unauthorised copying of material not only affects publishers in South Africa but is also a concern for libraries that provide the material to their clients for use. International

trade agreements such as GATS and TRIPS, as discussed in section 4.4.4 of this chapter, impact on the South African library and publishing sectors as well. South Africa has as yet not committed its library services to the GATS agreement, but is in the process of preparing to enact legislation to implement this (Rikowski, 2005: 84). It is already a signatory of the TRIPS Agreement (Nicholson, 2003). Legal deposit institutions, with their responsibility of providing access to their collections as stipulated in legal deposit legislation, encounter problems similar to those experienced in the general library environment.

The Copyright Act in South Africa provides for exemptions from copyright under the principle of fair dealing and various other exceptions (Klopper & Van der Spuy, 2005: 51-53). Sections 12 and 13 refer specifically to reproduction by libraries and archives (Nicholson, 2003), which includes the legal deposit libraries and other depository institutions. Those concerned with legal deposit in South Africa, if they are to effectively execute their national mandate in the long term, must stay vigilant to ensure that their specific circumstances are provided for in any changes in future copyright legislation.

#### **4.5.3.4 *National Information Policy***

The rewards of establishing and successfully implementing a national information policy are potentially high, such as new economic activity and new job opportunities (Oppenheim, 1994: 133). South Africa has a fairly well developed infrastructure and information industry and a wealth of information resources. A national information policy that exploits this would boost the economy, improve social conditions and empower the country's historically disadvantaged population (Cillie & Roos, 1996: 11; Wild & MnCube, 1996: 192). Various sections within South Africa such as the (former) Reconstruction and Development Programme

(RDP), the Ministry of Posts, Telecommunications and Broadcasting, the Department of Arts and Culture and the Library and Information Services sector have been working on information policy issues for a number of years (Cillie & Roos, 1996: 13-14; Wild & MnCube, 1996: 187-189). From these and other similar endeavours, many valuable reports have emanated, but as yet the government has not been able to create a national information policy (GCIS, 2000). Legal deposit cannot be separated from an overall policy concerned with the library and information sectors. As an integral part of the information industry of the nation (Cillie & Roos, 1996: 13) legal deposit and legal deposit institutions in South Africa are dependent on the strategies and decisions surrounding national information policy that impact on information infrastructure issues in the country.

#### **4.5.3.5 National Book Policy**

The South African book sector urgently needs national book policies to coordinate and legislate book development (Kuhl, 2005: 3; Perold, Chupty & Jordaan, 1997: 8; Wafaworowa, 2001: 10). Such a policy would serve as a strong legal instrument to guide activities in the book and publishing industry (DAC, 2005), give incentives for printers and publishers producing “home-grown literature” (Kuhl, 2005: 3) and promote access to books for the previously disadvantaged majority (Seeber, 2000: 280). The current activities surrounding the development of a national book policy for South Africa follow on a study done at the request of the Department of Arts and Culture by the Print Industries Cluster Council (PICC) on intellectual property rights in the print industries sector as part of an initiative to identify policy and development needs in the cultural industries<sup>9</sup> (DAC, 2005; Kuhl, 2005: 3). As was discussed in section 4.4.6 of

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<sup>9</sup> “Cultural Industries” is a term used to describe a wide variety of cultural activities that all have commercial organisation as their prime motivating force, and thus includes the publishing industry.

this chapter, legal deposit functions cannot take the place of national book policies. Any actions taken regarding book policies will therefore have direct repercussions for legal deposit when it comes to the comprehensive acquisition and preservation of books as an integral part of the country's published heritage.

#### **4.5.3.6 DAC (*Department of Arts and Culture*)**

The publishing sector as part of the cultural industries, and the legal deposit institutions as part of the library and information services sector, both fall under the auspices of the Department of Arts and Culture. Within the broader information infrastructure arena, the DAC therefore has a significant influence on issues that directly impact on the practical implementation of legal deposit in the country.

#### **4.5.4 Other supporting role players in legal deposit in South Africa**

Apart from the three major role players discussed above, various other institutions and organisations play significant supporting roles in the implementation of legal deposit in South Africa. These include chiefly statutory bodies and professional organisations or institutions.

##### **4.5.4.1 *Statutory bodies***

###### **i. *The Legal Deposit Committee***

Section 8 of the Legal Deposit Act of 1997 provides for the establishment of a Legal Deposit Committee of which the main purpose is the co-ordination and promotion of the implementation of the Act (South Africa, 1997). The Committee is also mandated to play a key role in the

development of regulations for the OPDs and electronic publications (Commencement of the Legal Deposit Act, 1997: 2).

ii. *National Council for Library and Information Services*

Created under the National Council for Library and Information Services Act, No. 2 of 2001, the National Council for Library and Information Services advises the Minister of Arts and Culture and the Minister of Education on matters relating to library and information services (South Africa, 2001). One of the areas in which a formal structure of this kind can play a role is in the formulation and implementation of a national information policy (Lor, 1997). Legal deposit institutions form part of the library and information services structure in South Africa and therefore fall directly under the auspices of the Council. This direct involvement is supported by the fact that the National Librarian of South Africa is one of the representatives on the Council.

**4.5.4.2 Professional and other associations/bodies**

i. *PASA (Publishers' Association of South Africa)*

PASA is the official body representing the South African publishing industry. Its members include commercial organisations, university presses, non governmental organisations (NGOs), small privately owned publishers and importers and distributors. The PASA publishers' directory is published in an online version which is updated on a monthly basis, as well as a print version which is updated once a year (PASA, 2006). PASA can deliver direct input into matters relating to legal deposit as it has permanent representation on the Legal Deposit Committee (South Africa, 1997).

ii. *PICC (Print Industries Cluster Council)*

The Print Industries Cluster Council was formed in 1999 to represent the book value chain. It is an industry-led, non-profit organisation that serves as a vehicle uniting all the separate industry associations. Members include PAMSA (Paper Manufacturer's Association of South Africa), PIFSA (Print Industries Federation of South Africa), PASA (Publishers' Association of South Africa) and SABA (South African Book Association). The Council is made up of representatives of these associations and from the Departments of Arts and Culture, of Education and of Trade and Industry (PICC, 2005). The PICC is responsible for drafting a national book policy, of which the relevance for legal deposit has already been mentioned in section 4.5.3.6 of this chapter. The PICC is also part of a broad initiative to examine policy and other development needs in the cultural industries, of which copyright formed a major component (PASA Copyright Committee, 2004). These associations of the PICC with PASA and DAC all provide further indirect links with legal deposit.

iii. *SABA (South African Booksellers Association)*

SABA is the organisation that officially represents the retail book industry in South Africa (SABA, 2000). SABA and PASA have recently formed a committee to work together with BookData/SAPnet on various initiatives such as the electronic ordering of books (BookData/SAPnet, 2005). In this co-ordinating and liaising capacity with the general book trade, SABA can thus be a potentially significant partner in legal deposit in the country.

iv. *Sabinet Online*

The South African Bibliographic and Information Network (SABINET) was established in 1983 incorporating all the existing union catalogues of South African material, as well as the holdings of many other southern African libraries (Lor & Geustyn, 2001). A new company, Sabinet Online (Pty) Ltd., was created in 1996. Sabinet Online provides a wide range of

services to libraries, companies and government departments, and comprises a number of products, one of which is SACat, a national database of most of the library stock in Southern Africa (Sabinet Online, 2006). Sabinet Online furthermore provides access to a variety of other products such as ISAP (Index to South African Periodicals), South Africa legal information such as NetLaw (updated acts/statutes and regulations), SA Gazettes (full-text government and provincial gazettes), and SA e-publications (a comprehensive collection of full-text electronic South African journals) to name but a few (Sabinet Online, 2006). These can all be potentially useful in the administration of legal deposit, for example as resources against which legal deposit material can be checked.

#### **4.6 Summary**

In this chapter legal deposit institutions and publishers were identified as the main role players in the legal deposit process, with the state and other professional associations and/or bodies as additional role players. The various responsibilities and roles of these stakeholders in a system of legal deposit were discussed in general, as was their potential effect on the practical execution of legislation in a country. The roles of the legal deposit institutions in South Africa, South African book publishers and the individual sectors and areas of decision making within the government pertaining to legal deposit in South Africa were highlighted.

The next chapter deals with the practical investigation that forms the heart of this research project. The information acquired in the preceding chapter is essential for conducting the research, as it provides the necessary background to understand the context within which the two main role players execute their legal deposit responsibilities and thus the context within which the practical research project was executed.



## 5 Research design and methodology

### 5.1 *Background to the research project*

#### 5.1.1 Introduction

This chapter deals with the empirical portion of the research which aims to investigate the practical issues identified as the core problem areas for investigation in this study.

The investigation was conducted in two stages. The first phase of the study involved a survey to explore the perspectives and actions of publishers and legal deposit libraries with regard to legal deposit, to determine how these factors could influence successfully implementing legal deposit in South Africa. Publishers and libraries, as was shown in the previous chapter, are the two main role players in the legal deposit system of a country. Publishers must feel convinced of the need for and importance of legal deposit if they are to willingly submit their publications as required by legislation. Legal depositories, having been designated to preserve the published heritage of a nation, have to have effective systems in place to be able to efficiently manage and execute their functions, and the people working with legal deposit have to be knowledgeable, skilled and dedicated to the cause.

The second phase of the study followed on the first. This part of the project consisted of a number of feasibility studies conducted with the aim of investigating means of obtaining figures that reflect the state of compliance with legal deposit in South Africa. Although this formed only a small segment of the overall research, it fulfilled the need for obtaining

actual compliance data that would supplement the information produced by the surveys.

The chapter commences with background information about the general research approaches and the methods that were applied. This is followed by in-depth expositions of the instruments used for the implementation of each phase of the study, the sampling procedures applied and the processes followed for data collection and analysis. Any research regarded as meaningful has approaches and methods the quality of which are measured against reputable standards. With this in mind, an assessment/evaluation of the methods used for the two phases in the investigation, is also provided.

### **5.1.2 Research philosophy**

The context in which we do research determines where we want to go with our research and what we want to achieve. As in everyday life, there are different worldviews and philosophies that influence our priorities and decisions concerning our research (Easterby-Smith, Thorpe & Lowe, 2002: 3; Neuman, 2006: 80). It is therefore important that a researcher is clear about the paradigm issues that guide and inform his/her research approach, as they are reflected in the methodologies applied in the research and help place the research into a broader context. (Easterby-Smith, Thorpe & Lowe, 2002: 42; Guba & Lincoln, 1998: 195). Two of the most commonly used philosophical approaches in social science research are positivism and the interpretive approach.

Positivism is the oldest and the most widely used of these two approaches (Neuman, 2006: 81). There are many versions of positivism, but the central idea in this philosophy is that the social world can be explained

scientifically according to law and logic, that its features should be measured through objective methods and not subjectively through reflection, sensation or intuition (Easterby-Smith, Thorpe & Lowe, 2002: 28; Neuman, 2006: 81). The latter, smaller, part of this research project, which focuses mainly on statistical measurements, follows the positivist tradition.

The main concern in the project, however, is with the interpretive approach. The interpretive tradition adopts a practical approach, and seeks to understand what meaning and significance the social world has for the people living in it (Neuman, 2006: 88; Procter, 1993: 7). There are several varieties of interpretive social science, one of which is the phenomenological (Neuman, 2006: 88). Phase one, the primary component of this project, follows a phenomenological approach. The researcher concentrates on discovering phenomena as they are consciously experienced and describes them as openly and with as much honesty as possible (Philosophies of social research, 2006). The main aim of phenomenological research, as is illustrated in the first phase of this study, is to interpret the interpretations that people have already made of their lives (Balnaves & Caputi, 2001: 5) and finding common themes to illustrate the meanings of these phenomena without any preconceived suppositions and notions (Philosophies of social research, 2006; Struwig & Stead, 2001: 16).

## **5.2 *Research methodology***

### **5.2.1 Research approaches**

Although both quantitative and qualitative research can be concerned with the individual's point of view (Denzin & Lincoln, 1998: 10),

qualitative research emphasises the individual, is sensitive to context and uses a wide range of interpretive practices to get a better understanding of the subject or the person involved in an investigation (Denzin & Lincoln, 2005: 4; Neuman, 2006: 151). Studying events independently of the understanding of the people involved in the research would not have been relevant for the first phase of this project where discovering the perceptions and feelings of the individual role players formed the core of the investigation. A qualitative research approach employing many elements of descriptive research provided descriptions of the mechanisms and relationships involved in the process of legal deposit and rendered fairly accurate profiles of the groups and phenomena investigated (Neuman, 2006: 35). Some elements of an explanatory research nature, which provided knowledge about processes underlying the behaviour of the participants in the study, were also present, allowing different issues or topics to be linked (Balnaves & Caputi, 2001: 17; Neuman, 2006: 35). This interpretive use of a combination of research approaches is not unusual in qualitative research (Denzin & Lincoln, 2005: 5; Padgett, 2004: 297). In this study, this approach was expected to provide an opportunity for open-mindedness, and for taking advantage of the serendipitous discovery of new issues (Padgett, 2004: 297), which would help in gaining an in-depth understanding of the phenomena to be studied (Denzin & Lincoln, 2005: 5).

In the second phase of the study a conceptual shift took place, moving away from a focus on the role players in legal deposit, to quantitative measurements and data concerning the products of legal deposit, the publications. This part of the investigation clearly indicated an exploratory research approach. Exploratory research is valuable when investigating an area on which little information is available, for gathering quantitative data that is not bound to specific theories, and when a researcher plans to study new areas of or test new methods for application

(Balnaves & Caputi, 2001: 30; Neuman, 2006: 34), as was anticipated for this study. Although the results of exploratory research by themselves are not normally useful for decision-making, it was foreseen that they would serve as a means of determining the feasibility of proceeding with some of the areas of research undertaken in this project, and provide a sense of direction for possible future applications (Neumann, 2006: 33).

### **5.2.2 Research methods**

In many research projects, it may be advantageous to use multiple methods to address a research problem (Brewer & Hunter, 1989: 82). This conventional multi-method approach generally generates multiple data sets of the same problem which can then be cross-validated (Baker, 1994: 284). In this study, such outcomes were not the primary reason for using more than one research procedure. The project comprises two definite phases of research and a multi-method approach was used to address the different questions posed in the two sections of the investigation (Brannen, 2005: 177). Each phase has a specific aim and addresses different concerns, and the methods used vary accordingly. Phase one of the investigation, which made up the greater part of the project, uses survey research in the form of qualitative interviewing to examine the subjective feelings and opinions of publishers and legal deposit institutions about legal deposit. In phase two feasibility studies, using secondary analyses of existing data, were undertaken to obtain information on the number of books delivered as legal deposit by publishers. The following sections expand upon the practical implementation of these two phases of the research project.

## 5.3 *Conducting phase one*

### 5.3.1 Introduction

The aim of the first part of the project was to investigate the attitudes, opinions and behaviours of both publishers and legal deposit libraries in South Africa that could affect the delivery of legal deposit material and the effective implementation of legal deposit legislation. In order to do this, information had to be obtained from representatives of the book-publishing sector and from the legal deposit libraries. Survey research was identified as the most fitting way in which to accomplish these goals.

### 5.3.2 Survey research

Survey research is a method of gathering data from a selected group of people, in their natural environment, for a specific purpose (ASA, 2005; Graziano & Raulin, 2000: 139). It is acknowledged as an outstanding method of gathering information from a sample of individuals with the aim of learning about and understanding their ideas, knowledge, feelings, opinions, attitudes and self-reported behaviour (Fontana & Frey, 2005: 698; Graziano & Raulin, 2000: 140; Neumann, 2006: 43).

#### 5.3.2.1 *Choice of the survey instrument*

The term “survey” refers to both interviews and written questionnaires, and data collection can be administered by mail, telephone or in-person (ASA, 2005; Fontana & Frey, 2005: 698; Trochim, 2006). Not one of these methods is regarded as the “best” or “better” method as each has its strengths and weaknesses. Choosing and developing the survey instrument depends on what the research problem is, and what research

questions need to be addressed in the research (Czaja & Blair, 1996: 4; Graziano & Raulin, 2000: 141). However, a number of elements make face-to-face interviewing a suitable method for specific research needs (Czaja & Blair, 1996: 46; Trochim, 2006):

- Response bias is usually low as the rate of cooperation is basically equal for all types of respondents.
- High response rates are likely; one of the reasons may be that advance contact can be made which to an extent 'legitimises' the interview.
- The data is collected personally by an interviewer, which gives more control over the response situation.
- Rapport is better and the quality of responses is generally regarded as very good because the respondents get to see the person they are talking to and the study can be explained in person.
- Questions can be more complex as interviewer and respondent are in the same location and face-to-face methods, allowing for a more relaxed atmosphere and tempo of questioning, are better for open-ended questions.
- It is a flexible method, visual presentations are possible, and both interviewers and interviewees have the opportunity to consult records.

The main disadvantages of using the method of face-to-face interviewing are the expense involved, usually because of travelling costs, and the amount of time needed to collect data. In addition, respondents often feel

hesitant to report personal types of behaviour, do not have time to formulate their answers, and may under certain circumstances be likely to provide answers that they regard as desired by the interviewer (Czaja & Blair, 1996: 46-47; Trochim, 2006).

Taking into consideration the positive attributes as well as the disadvantages and problems that could be encountered, face-to-face interviews with representatives of both the publishers and of the legal deposit institutions were regarded as the most feasible choice of survey for this study, in which fairly complex information (ASA, 2005) was to be collected. These personal interviews form the core of the research project and provide in-depth insight into the various important aspects of the research problem.

### **5.3.2.2 *Defining the population***

For the purposes of this study, the survey population was defined as the larger group or pool of cases about which information is to be obtained (Czaja & Blair, 1996: 113; Graziano & Raulin, 2000: 143; Neumann, 2006: 224).

Two main groups made up the population targeted for the face-to-face interviews in the present project namely publishers and legal deposit institutions. Commercial publishers were chosen to represent publishers because as visible commercial organisations they would most probably be depositors of legal deposit material and would not only have knowledge of and be active within the legal deposit arena, but would as a result also be the ones with definitive opinions regarding the issues surrounding the subject.



All five of the legal deposit libraries were included in the survey. Despite the fact that they all form part of one legal deposit system, they are situated in different parts of the country, have different additional library responsibilities and (could) have different ideas and ways of approaching legal deposit in their diverse organisations.

### 5.3.2.3 *The sampling process*

Sampling is the process of systematically selecting the group of people or cases to be included in your research project and is a very important factor in survey research (Graziano & Raulin, 2000: 143; Trochim, 2006). A sample represents the population and is more manageable to work with than the whole population or pool of cases (Neumann, 2006: 219).

#### *i. Constructing a sampling frame*

A sampling frame is a list or a resource that contains and closely matches the elements of your defined population (Czaja & Blair, 1996: 116; Neuman, 2006: 225). It is, however, often difficult to get accurate listings of the theoretical population to be investigated, and in such cases the attainable list, i.e. the list of the accessible population from which a sample can be drawn, constitutes the sampling frame (Trochim, 2006). Obtaining a listing of the whole spectrum of the theoretical population for this study, namely all commercial publishers in South Africa, was not possible as such a comprehensive list/database does not exist.

As mentioned above, PASA is the official body representing the publishing industry in South Africa. Although not all commercial publishers are members of PASA, the publishers' directory compiled by PASA was identified as an attainable list of the accessible population, and therefore a suitable sampling frame for the purposes of this project. The publishers' directory is updated regularly and contains addresses of

publishers, contact details, publishing categories and the various imprints that are used by the publishers. Other valuable information such as number of titles published per year, size of staff etc. is also provided (PASA, 2002).

*ii. Type of sampling employed*

Two types of sampling methods exist, namely probability sampling and non-probability sampling. Probability sampling is the most frequently used method and involves the random selection of elements where each element has an equal probability of being selected. In non-probability sampling, elements are chosen arbitrarily with no way of estimating the probability of an element being included in the sample (Trochim, 2006). In cases where it may not be feasible to do random sampling, non-probability sampling is used (Neuman, 2006: 220; Trochim, 2006).

For this study, purposive sampling was used to accomplish the blanket selection of publishers for the survey. Purposive sampling is a form of non-probability sampling that is used for special situations (Fink, 1995: 17; Neuman, 2006: 222). When purposive sampling is implemented, the researcher has a specific purpose and often a specific predefined group in mind (Trochim, 2006). The researcher also often uses his/her knowledge or expertise about the group to select subjects to represent the population (Berg, 1998: 229). As the sampling frame, namely the PASA list, also contains other categories of member apart from publishers, such as consultants, importers and distributors, it was necessary to exclude these groups as populations for study. Purposive sampling was the obvious choice of sampling method, as the aim of the project was to identify a particular pre-determined type of publisher, namely commercial publishers as members of PASA, for in-depth investigation.

Quota sampling is another type of non-probability sampling used in this part of the project. In quota sampling, the population being studied is divided into subgroups or categories. An estimate is then made as to how many in each subgroup/category will be surveyed (Neuman, 2006: 221). PASA codes publishers according to turnover band structure indicating the size of publishers, on which PASA membership fees are based (Galloway *et al.*, 2005: 10). In 2002 when this particular study was initiated, about 10% of the publishers were classified as large publishers, 6% as medium-sized publishers, and the remaining 84% as small publishers (PASA, 2002). As the PASA list was used as the sampling frame, it was a logical decision to also use these categories of large, medium and small publishers for the sampling for the survey. A total of 20 publishers were interviewed. Of this sample the larger publishers represented 15% of the total, medium publishers 10%, and smaller publishers 75%.<sup>10</sup> Satisfactory quota sampling procedures require that the sample be drawn to reflect the proportions of the overall population as accurately as possible (Fink, 1995: 19; Neuman, 2006: 221). From the numbers in this sample, it can be seen that the percentages do not fully reflect the proportions provided by PASA in 2002. Due to unforeseen last-minute cancellations of interviews especially by smaller publishers, this was unavoidable. However, in spite of these relatively small discrepancies, the percentages of the three population categories satisfyingly reflect the proportions of the original PASA population groupings as closely as was practically possible.

The ideal would have been to interview representatives of publishers in various diverse areas of South Africa. However, practical questions such as time, budget and other similar constraints (Czaja & Blair, 1996: 116)

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<sup>10</sup> The information on the coding of publishers according to their annual net turnover is not freely available and was provided by Dr Galloway, head of Publishing Studies at the Department of Information Science, University of Pretoria, on a confidential basis. Unfortunately therefore, a list of names of publishers that were interviewed cannot be supplied as an appendix to this study.

meant that only publishers located in the same cities as the five legal deposit institutions were selected for the survey. In this way the interviews with representatives of the two target population groups could be scheduled to coincide. No sampling was involved with regard to the legal deposit libraries, as all five libraries were automatically included in the survey.

### 5.3.3 Collection of data

Qualitative research may involve the use of a variety of data collection methods (Denzin & Lincoln, 2005: 3) and each of these has its own special concerns and procedures. For the purposes of this part of the project, qualitative semi-structured interviewing was identified as the most fitting method for collecting data from both the publishers and the libraries.

#### 5.3.3.1 *Qualitative interviewing*

Qualitative interviewing is one of the most common and powerful ways in which the 'hows' and 'whats' of people and their lives can be studied (Fontana & Frey, 2005: 698). It also manifests specific characteristics that make it an extremely versatile approach to doing research (Berg, 1998: 63-64; Rubin & Rubin, 1995: 6, 17) for example:

- Qualitative interviewing requires intense listening and a systematic effort to really hear and understand what people are saying.
- Interviewers are interested in the understanding, knowledge and insight of the respondents.
- Qualitative interviewing provides maximum opportunity for good communication between the researcher and the respondent.

- Qualitative interviewing provides an effective method for understanding or learning how the participants come to attach certain meanings to phenomena and events.

All these features made qualitative interviewing an excellent choice of method for data collection for this particular project in which the subjective feelings and opinions of publishers and legal deposit institutions had to be determined.

Structured interviews in which respondents are asked set questions generally allow little room for variation of responses, whereas unstructured interviews follow an informal course and do not impose any pre-categorisation of questions that may limit the field of inquiry (Fontana & Frey, 2005: 702, 706). Semi-structured face-to-face interviews (see Appendices C and D) that allow for elements of both structured and unstructured interviewing were considered to be the most appropriate to use in this study for the following reasons:

- The accepted expectation that interviewees are more likely to express their viewpoints in a relatively openly designed interview situation than in a formal standardised type interview or questionnaire (Flick, 1998: 76; Patton, 2002: 21), was ideal for this specific situation where the “real” opinions and feelings of the participants were required.
- Although predetermined questions and topics are implemented and asked in a systematic and consistent order, semi-structured interview schedules allow interviewees the freedom to digress (Berg, 1998: 61), which was useful as it was anticipated that

participants would introduce their own issues during the interviews.

- Another valuable feature of semi-structured interviewing is that no attempt is made to anticipate replies in advance because a wide range of answers are acceptable and likely, and interviewees are expected to probe beyond the standard answers to standardised questions (Berg, 1998: 62).

### 5.3.3.2 *Constructing the survey instrument*

Constructing the survey instrument can be a time-consuming process (Graziano & Raulin, 2000: 142), but is a very important exercise as it facilitates the collection of credible data in a systematic and thoughtful way (Rubin & Rubin, 1995: 42). A carefully constructed instrument keeps the interview focused on the research topic, plans what is going to be asked, who is going to be asked and why, and collects the information by means of standardised procedures from all participants in more or less the same manner (ASA, 2005; Rubin & Rubin, 1995: 42). In preparing the design of the instrument, several principles are applicable and were followed for this study:

#### i. *Question types and question sequence*

The researcher must first of all determine what questions are to be asked, in what form, and in what order (Graziano & Raulin, 2000: 140; Czaja & Blair, 1996: 24). Broad categories that are relevant to the study may be outlined and a set of questions relevant to each of the categories developed. A prerequisite in designing the survey instrument is that it must adequately cover the area of information sought; and it must also be appropriate for the survey population (Czaja & Blair, 1996: 24).

For the interviews with representatives of the various publishers (see Appendix C), the initial part of the interview schedule consisted of a set of general questions regarding the interviewee's role in the organisation with regard to legal deposit, knowledge of the legal deposit system, knowledge of the system by other workers in the organisation, and the procedures in place for delivering material. This was followed by questions concerning the interviewees' opinions on issues covered by legal deposit legislation and issues identified in the literature that are of concern to publishers in the practical implementation of legal deposit in the country. Questions on issues surrounding the enforcement of legislation such as general communication with libraries, problems experienced, and opinion on penalties and other enforcement measures contained in the Act were also included in this section. No specific questions were set for the final part of the interview, but comprised open-ended questions so as to elicit responses from the publishers about the tracing of non-compliant publishers and the enforcement of compliance. The purpose of this open-ended section was to determine the responses of the interviewees without predetermining their point of view through prior selection or demarcation of questions (Patton, 2002: 21).

Pre-testing of the questionnaires was not appropriate for this study. The aim of pre-testing is generally to get feedback on individual questionnaire items, to intercept possible problems with terminology, and to get an indication of how respondents may answer some of the questions (Czaja & Blair, 1996: 23). This was not required in this study as the set of pre-conceived questions was merely a methodological aid (Flick, 1998: 83). Each topical area was introduced by the interviewer with an open-ended question that allowed spontaneous expression by the respondents in answering the questions, as well as further in-depth probing by the interviewer where necessary.

ii. *Flexibility*

The instrument has to be made flexible enough so that ideas can be actively solicited from the participants (Rubin & Rubin, 1995: 43).

In the interviews with the publishers, this flexibility was aimed at throughout the interview process as described above. Flexibility was also achieved specifically in the final round of open-ended questions in which the participants were asked their opinion as to how “untraceable” (private, smaller) publishers could be traced, and then given the opportunity to add anything else relevant to legal deposit and its implementation that may not have been covered during the interview.

iii. *Knowledge of topic*

One of the most important assumptions underlying semi-structured interviewing, is that the participant has a complete stock of knowledge about the topic under study and that this can be expressed spontaneously by their answering open-ended questions (Flick, 1998: 83).

Most of the persons with whom the interviews were conducted were specifically involved with legal deposit in their organisations. The open-ended questioning format allowed interviewees to mention any problems, suggestions, or opinions with regard to legal deposit that they could draw from their specific knowledge and experiences of the subject.

Schedules were also designed for the interviews with representatives of the five legal deposit libraries (see Appendix D). The format and content of these interviews was much the same as those conducted with the publishers. Similar basic issues concerning the legal deposit system and legislation were covered. Other issues important for and pertaining specifically to the libraries were added where necessary. The same general open-ended format was followed, and the specific open-ended section



introduced into the publishers' interview schedule also concluded the interviews with the legal deposit institutions.

### 5.3.3.3 *Administering the survey instrument*

#### i. *Setting up a meeting*

In preparation for the interview, the researcher must find a member of the group, "an insider" (Fontana & Frey, 2005: 707) who is both knowledgeable about the topic and willing to participate. This has to be handled with caution as initial contact impressions often influence potential participants (Rubin & Rubin, 1995: 108).

The Managing Directors of the targeted publishers and the Directors of the five legal deposit libraries were contacted personally by telephone in order to get their consent to conduct the interviews and, where necessary, to obtain the names of the most suitable and knowledgeable persons with whom the interviews should be held. Most of the telephone calls were followed-up by e-mails to confirm the date, time and place of meeting. Some of the contacts wanted an outline of questions to be asked, but the researcher explained that a detailed questionnaire could not be given beforehand, as the idea was that interviews were to be relatively unstructured and spontaneous. However, the underlying aims and goals of the study were explained to the prospective interviewees. To alleviate possible discomfort that publishers could feel, it was stressed that this was purely an exploratory exercise, that the information would not be used as "evidence" in compliance issues, and that the researcher was not interested in anything that was seen as confidential organisational/business information.

ii. *Scheduling appointments*

The general recommendation for scheduling interviews is to try not to make the interviewing schedule too tight as the quality of interviews will be better if they are spaced comfortably with time in-between to think and rest (Rubin & Rubin, 1995: 109).

As the researcher had only a limited number of days to spend in each distant city, the scheduling of appointments had to be fitted into the time available, taking into consideration where the publishers and the libraries were situated. The aim was to fit in four sessions per day, but in some cases only three interviews per day could be handled if travelling was involved. Interviews in the Pretoria and Johannesburg areas were easier to plan to fit into the researcher's teaching schedule at the university.

iii. *Length of interviews*

Interviewing is regarded as a difficult and very time-consuming data-gathering technique (Berg, 1998: 71; Fontana & Frey, 2005: 697) and the length of individual interviews is relative depending on the basic research question (Berg, 1998: 73).

Interviews with both the publishers and the legal deposit libraries were initially planned to last a maximum of one and a half hours. In many cases, however, the interviews lasted longer than planned as many interviewees had much to contribute especially during the open-ended section. Interviews in the libraries all went over the allotted time mostly because there were a number of people present for the interviews who availed themselves of the opportunity for open discussion.

iv. *Conducting the interviews*

Interviews, unlike written surveys, can be extremely rewarding and interesting situations for both the interviewer and the subject (Fontana & Frey, 2005: 698).

The researcher was given a very cordial reception by all the publishers. At most of the companies the managing director, owner, or senior person responsible for legal deposit, was present at the meeting. At four of the publishing houses, the person(s) responsible for legal deposit in the organisation accompanied the managing director. All the interviewees were extremely co-operative in providing information.

Excepting for the Library of Parliament where only one person was interviewed, the head of the section under which legal deposit resorted, and several other persons responsible for and/or working with legal deposit were present at the interviews in the four other legal deposit libraries. The participants from the libraries were all particularly eager to share their information.

**5.3.3.4** *Data analysis*

The main purpose of data analysis in qualitative research is to organise the information so as to present a narrative that explains the meanings, feelings, opinions and so forth that underlie the behaviour of the participants in the study (Rubin & Rubin, 1995: 229). The data in this study was documented in the form of tape-recorded accounts of the interviews that were later transcribed by an independent person. Although there is no right or wrong approach to data analysis in qualitative research (Poggenpoel, 1998: 337), general guidelines as found in the literature, particularly regarding coding procedures were followed as far as possible for analysing the data.

For the initial set of questions, formal coding approaches for analysing the data were not planned, as the interview schedule provided for questions covering predetermined themes and issues. The overall flexibility of the interview schedule, however, resulted in participants' answers sometimes deviating from the planned order of the questions and also in additional issues being discussed. This meant that, where necessary, responses had to be grouped together so that coincidental concepts and themes that emerged from the conversations could be examined.

With the open-ended questions, however, coding principles were used to organise the responses into categories that identified and brought together corresponding themes (Berg, 1998: 233; Rubin & Rubin, 1995: 238). The transcribed interviews were read paragraph by paragraph and word by word, the themes and categories were marked as they appeared, and after a code for each paragraph had been provided, the themes were grouped together. Thematic coding was developed for "comparative studies in which groups that are studied are derived from the research question and thus defined *a priori*" (Flick, 1998: 187). This research project complies fully with this requirement and thematic coding was therefore deemed highly suitable for analysing the results of the open-ended questions that were asked of the publishers and legal deposit institutions.

#### **5.3.4 Evaluation of research approach and methods of the qualitative study**

In any set of data resulting from a research project, errors will occur (Litwin, 1995: 5). However, if research is to be meaningful such errors must be minimized so that the data provides an accurate reflection of the truth (Trochim, 2006). Truth, and thus the quality of the research

undertaken, can be measured or evaluated in various ways, depending on the type of research and the approaches used.

#### *5.3.4.1 Issues surrounding reliability and validity*

The two prevailing foci in the evaluation of research are the concepts of reliability and validity. Reliability has to do with the quality of measurement, with how consistent the measurements are or how reproducible the set of results are (Litwin, 1995: 27; Trochim, 2006). Validity concerns methodological soundness or appropriateness, and refers to whether the concepts being investigated are actually the ones being measured or tested; it thus serves as a framework for assessing the quality of research conclusions (Balnaves & Caputi, 2001: 87; Graziano & Raulin, 2000: 186; Trochim, 2006).

The “language of validity and reliability” (Easterby-Smith, Thorpe & Lowe, 2002: 53) was originally developed for use in quantitative research that is largely based on the assumption of objectivity. These concepts are thus often not suited for qualitative research. Qualitative research firstly does not strive for broad generalisation of results (i.e. reliability of results), but takes the view that findings relate to the individual context of a specific research situation. Similarly, the validity and objectivity of data is not a core issue, as qualitative research often aims at understanding how research participants subjectively experience their world. Reliability and validity in qualitative research are therefore not necessarily bound by specific tools or methods, but pertain to the data or the conclusions reached by using the tools and methods in a particular context for that particular purpose (Maxwell, 1992: 284).

In spite of these basic presumptions, reliability and validity are still issues of much discussion within the qualitative research domain, with various alternative criteria for evaluating the quality of research and the results obtained having been proposed (ACHRN, 2004; Flick, 1998: 222-238; Patton, 2002; Poggenpoel, 1998: 348-350; Rubin & Rubin, 1995: 85-90; Struwig & Stead, 2001: 143-146; Trochim, 2006). The underlying principle, however, is that although these general criteria do address important, basic issues in qualitative research, they must be used to assess procedures and results in an appropriate manner suited to the individual research project, as each qualitative study is unique in its own way (Flick, 1998: 133; Patton, 2002: 433).

The nature of this specific study with the publishers and libraries, which aimed at getting as wide a scope as possible of information on the interpretations, experiences and actions of the participants regarding the topic under investigation, dictated that the following criteria be taken into account to ensure the quality of the research that was undertaken.

- *Credibility and confirmability*

These criteria correspond broadly to the criteria of internal validity and objectivity in quantitative research (Trochim, 2006). They refer to the degree to which the researcher demonstrates that the results and conclusions are believable from the perspective of the research participants, and the degree to which the results can be confirmed or corroborated by others. This plausibility or “truth value” (Guba & Lincoln, 1985) of research findings is seen as the most important criterion for the assessment of qualitative research (Patton, 2002: 93; Poggenpoel, 1998: 349).

Various strategies can be applied to enhance the credibility and confirmability of results. In this study credibility was enhanced by

investigating the topic of interest from the point of view of the participants (Trochim, 2006). The whole process of surveying the publishers and libraries intended to get their individual views and insights into the problem, and the interviews were taped and transcribed word-for-word. In the process of analysing the data these ideas and responses were not judged and therefore nothing, as far as was practically and humanly possible, was edited or left out.

Although the individual participants did not examine the analysed data, the results were provided as a report-back to the Legal Deposit Committee as the body that requested the investigation and provided the funding for conducting the interviews, and on which both groups of participants are represented. The “worth” of a research endeavour is often judged by the assessment of such bodies (Poggenpoel, 1998: 348). The credibility of the results was thus further confirmed by the Committee’s unconditional acceptance of and subsequent actions taken in response to the feedback report (see chapter 8, section 8.1.2).

As a final means of assuring the credibility and confirmability of methods and results, the terms/principles according to which the results were interpreted were checked (Flick, 1998: 232; Trochim, 2006) personally e.g. with knowledgeable persons such as the study leaders of the researcher, and others experienced in the field under study such as the head of the Publishing Section at the Department of Information Science. In addition, the appropriateness of the terms of reference used for interpretation was fairly obvious as they were taken from the subject literature and specifically also from official legal deposit legislation documents.

- *Consistency and dependability of data.*

Here the quantitative criterion of reliability is reformulated to check the dependability of procedures and data (Flick, 1998: 224; Trochim, 2006).

Emphasis is placed on detailing each step in the research process that may have influenced decisions taken about the research process to account for changing contexts within which the research occurs, and to examine any responses of participants that appear to be inconsistent (Patton, 2002: 93; Rubin & Rubin, 1995: 87; Trochim, 2006).

The nature of a doctoral study such as this automatically necessitates the detailed discussion and exposition (as was done in the first part of this chapter) of the methods employed in conducting the research, providing the motivation for the choice of data collection and recording techniques, and fully explaining the contexts of the research and the procedures for analysis and synthesis of results, all of which constitute the expected “auditing trail” (Flick, 1998: 232; Patton, 2002: 93) to ensure consistency and dependability of data.

As the aim of the project was to obtain as wide as possible a scope of views of the participants in the survey, any “inconsistencies” in the responses would not be a problem. However, apart from the pre-determined topics covered during the interviews, the concepts and themes that emerged from the open-ended questions from the various participants and settings were carefully organised according to themes and documented, and this measure arguably attests to consistency across the cases in the project.

- *Transferability*

Transferability relates to the quantitative criterion of external validity, which implies the degree to which research results can be generalised to other participants, situations, times and places (Graziano & Raulin, 2000: 187; Trochim, 2006). The criterion of transferability attempts to determine whether the researcher has provided sufficient information about the context and assumptions underlying the research to allow the reader to



assess the potential transferability of the findings to other similar settings. Thus transferability is not synonymous with generalisation. Transferability concerns the applicability or the fittingness (Poggenpoel, 1998: 349) of qualitative research findings to other contexts and settings, rather than to the number of times that the study is or can be replicated (Trochim, 2006).

Transferability assumes an analysis of the domains in which the results may be applied (Flick, 1998: 233). Findings can, for example, be transferred (generalised) in cases where improvements to existing programmes are feasible or changed policy decisions suggested from the patterns observed or lessons learned from the investigation (Patton, 2002: 93). These conditions were applicable for this particular study. The project was undertaken with the aim not only of investigating the current state of legal deposit in the country, but also of attempting to provide suggestions for the successful future management of the system. This latter aim naturally implies that the results will be transferred/applied to other situations that may arise within the legal deposit domain in the future.

The investigation involving the publishers was aimed specifically at small, medium and large commercial publishers. This choice was based on the assumption that commercial publishers would be knowledgeable about and active in the legal deposit arena, with definitive views on the topic under investigation as described fully in section 5.3.1.3 of the current chapter. The potential transferability of the results obtained to other publishers in similar contexts and situations can therefore be regarded as relatively high. The question of transferability of results in the case of the libraries for the purposes of this part of the study did not need consideration, as all five of the legal deposit libraries were included in the survey.

- *Transparency*

Transparency aims primarily at allowing the reader to see the basic processes of data collection, keeping records of all the procedures throughout the investigation, and providing for access to interviews, transcripts and so forth (Rubin & Rubin, 1995: 86).

The data collection and analysis methods are described in sections 5.3.2.3 and 5.3.2.4 of this chapter, which provide a clear view of the processes that were followed. Also examples of the interview schedules are attached as appendices to this manuscript. All the interviews were taped and subsequently transcribed by an independent professional transcriber, and copies of both the taped interviews and transcribed records have been kept.

#### *5.3.4.2 Other issues pertaining to quality of methods and research results*

The preceding discussion addresses the core issues involved in ensuring the quality of the research results. Other issues, however, also need to be taken into account to confirm the quality of this research study and the conclusions drawn from the results.

- *Errors in sampling*

An important aspect in survey research is reducing errors in sampling so as to deviate as little as possible from the population parameters (Czaja & Blair, 1996: 172; Graziano & Raulin, 2000: 145). With non-probability sampling, as used in this research project, it is not always easy to know whether the population has been represented adequately (Trochim, 2006). The population for this study, i.e. commercial publishers, was selected according to the categories defined in the sampling frame, namely small, medium and large publishers. The population characteristics were

therefore well represented. In addition, the initial selection of publishers for interviewing reflected the population ratio between the different categories of publishers as represented in the sampling frame.

Sample size was not a determining issue. The size of a sample in surveys depends on the research design, the kind of data analysis used, how accurate the sample has to be, and various other factors pertaining to the specific project (Czaja & Blair, 1996: 126; Graziano & Raulin, 2000: 145; Neuman, 2006: 241.242). Apart from the fact that the sample size in this study was determined by geographical location, travel costs and time factors, purposive sampling was used with the aim of obtaining theoretically significant, not statistically significant, units for research (Brewer & Hunter, 1989: 114; Patton, 2002: 242).

- *Researcher bias*

A researcher can potentially bring bias into a study for example by influencing participants in some way or another, selecting data that best supports the theory/hypothesis, using statistical techniques that best show the particular results predicted, or bringing personal perspectives into the analysis and interpretation of data (Flick, 1998: 226; Graziano & Raulin, 2002: 195; Struwig & Stead, 2001: 145; Patton, 2002: 93). A scrupulous application of the criteria discussed above to ensure the quality of the methods applied in conducting a research project and analysing its results, would inevitably also contribute to solving or minimizing the potential problem of bias.

Minimizing bias can, for instance, be achieved by increasing the credibility of the investigation. Apart from the methods discussed above, another way of ensuring that participants perceive the research as credible is to be open and honest with the participants and to clarify all aspects of the research topic with them before the interview commences (Flick, 1998:

128). In this study the underlying goals of the study were explained when the meetings were set up (see section 5.3.3.3(i)), and also discussed at the start of and during the interviews (see Appendices C & D).

In the question of bias, impartiality (Patton, 2002: 93) or “neutrality” (Poggenpoel, 1998: 350) is perhaps the most relevant concept in this investigation. Impartiality is critical if a researcher is serious in proving that the findings of the research reflect the ideas of the participants and their situation and not the motivations and perspectives of the researcher. Impartiality is proven *inter alia* by providing a solid description of the research methods and procedures applied, to verify the thoroughness of the investigation and the confirmability of the data that has been collected (as discussed in the previous section), which in turn maximises accuracy and minimizes bias (Patton, 2002: 93). Impartiality and the minimizing of bias were also confirmed in this study by the tape-recording of interviews and the use of an independent person to transcribe the taped interviews.

The impartiality of the researcher was further attested to by the fact that there was no specific reason for consciously or unconsciously constructing a biased version of her experiences (Flick, 1998: 226). Nothing had to be “proven”, as the researcher entered into the project without any hypotheses to test, or any preconceived ideas regarding the issues at hand or the outcomes of the study. No expectations or guidelines were specified for the project which was purely an investigative research project to explore and thus gain understanding of the phenomena surrounding legal deposit as experienced by its central role players.

- *The question of triangulation*

The strength of triangulation in qualitative research lies mainly in the area of data analysis as it adds credibility to and confidence in any conclusions drawn (Patton, 2002: 556). Various kinds of triangulation can be used, the

central idea of them all being the combining of different methods, theories and so forth to study the same phenomenon, with the aim of testing for consistency of results (Balnaves & Caputi, 2001: 95; Patton, 2002: 556).

The methodology of this study was grounded in accepted standards from the very beginning and this ensuring of the quality of the methods and the results as detailed in the above sections dispensed with any need for triangulation. Not all methods are appropriate for all research situations. Even though this was an investigative project, the verification, validation, consistency and credibility issues that are addressed by means of triangulation (Patton, 2002: 556), were thoroughly accounted for by other means, as explained in section 5.3.4. For the purposes of this particular qualitative investigation, triangulation was regarded merely as an alternative to validation (Flick, 1998: 230) and thus considered superfluous.

## ***5.4 Implementing phase two***

### **5.4.1 Introduction**

The core aim of the second phase of the research project was to obtain information about the level of compliance with legal deposit in South Africa. As such an investigation had not been done before in South Africa, various methods and options had to be examined, to choose those best suited to achieving this goal. For this type of exploration into an area not previously investigated, where initial ideas need to be further developed (Struwig & Stead, 2001: 7), conducting pilot or feasibility studies were considered to be appropriate.

#### 5.4.2 Pilot/feasibility studies

The term 'pilot study' usually refers to a mini version of a full-scale research project. For the purposes of this study the research that was conducted was applied more in the sense of 'feasibility studies' as pilot studies are also sometimes referred to (Van Teijlingen & Hundley, 2001). The aim of such a feasibility study is to formally try out and evaluate the use of proposed methods and techniques to see how well they perform and whether they present a viable concept for implementation (Fink, 1995: 17; Matson, 2000: 3; Van Teijlingen & Hundley, 2001). The aim of this part of the study was to obtain figures that reflect the number of books received as legal deposit. Within this context various means of obtaining this goal had to be explored, with the additional aim of possibly applying the results of these "tests" to various situations in the future. For these purposes, the following advantages of conducting feasibility studies were decisive:

- Feasibility studies fulfil a wide range of functions and are useful and valid for many kinds of projects (Matson, 2000: 2; Patton, 2002: 240; Van Teijlingen & Hundley, 2001). Such studies therefore provide an opportunity to test a variety of techniques to ascertain which of them are most applicable, and provide the best results.
- The results of the studies thus provide valuable insight for researchers and/or managers considering the implementation of similar projects, and possible problems and difficulties that may arise can be predicted (Litwin, 1995: 60; Patton, 2002: 240; Van Teijlingen & Hundley, 2001).
- Feasibility studies are a method of evaluating a project's potential for success and cost-effectiveness. This allows future researchers and/or implementers of projects the time and opportunity to make

changes before actually using the methods or implementing similar projects (Litwin, 1995: 60; Patton, 2002: 240; Matson, 2000: 3).

One major disadvantage of feasibility studies is that because they are exploratory, the results only suggest possibilities to consider, and cannot be used as definitive evidence that the implementation of similar projects is advisable or would be successful (Matson, 2000:3; Patton, 2002: 240; Struwig & Stead, 2001: 7). This limitation was, however, not a critical factor in this specific project as the feasibility studies undertaken were never intended to prove that the specific ventures could be successfully duplicated, but rather to provide guidance and/or suggestions for future projects only.

#### *5.4.2.1 Defining the elements included in the study*

The nature and purpose of the study required that the overarching feasibility study incorporate several different components. Because only a small total of elements were to be included for this project, they had to be appropriate for this particular study and had to provide the needed information. Information garnered from the literature and from the researcher's own background knowledge motivated the inclusion of the following data elements in the research sample:

- ISBN lists obtained from the National Library.

ISBNs are unique identifiers of particular titles and editions of books. Blocks of ISBNs are allocated by the International ISBN agency to specific regions or countries and administered by individual national agencies. The National Library of South Africa, Pretoria Campus, is the national centre responsible for the allocation of ISBNs to South African publishers.

- Book reviews in South African daily newspapers.

All the major South African newspapers are available on microfilm archived at the Pretoria Campus of the National Library of South Africa. Microfilming of the leading Afrikaans and English newspapers started in 1946 (Farrant, 2003). This service is still in operation and currently covers newspapers in most of the language groups of South Africa.

- Publications in South African libraries as listed on Sabinet Online's SACat database.

Sabinet Online provides a wide range of products and services to libraries and other institutions and companies in southern Africa. SACat, one of its products, is a national database of most of the library stock in southern Africa (Sabinet Online, 2006).

*i. Choice of sampling units*

The above-mentioned broad elements are the sampling frames from which the following specific units used in the study were selected:

- From the ISBN category, lists of ISBNs with the 0-620 prefix were used. These are special lists of numbers for once-off publishers or first-time publishers who have not yet established themselves in the publishing business and have not yet received their own unique ISBN identifiers.
- Two major daily newspapers were selected for the study. Both newspapers contain a weekly book review section.
  - o *Beeld* is an Afrikaans daily, printed six days a week and distributed in five provinces. It has an average daily readership of 364 000 and is owned by Media24. *Media24* is a leading print media concern in SA and a major publisher of newspapers (Naspers, 2006).



- *Cape Argus* is an English afternoon daily aimed at middle- to upper class readers in Cape Town with an average daily readership of 407 000 and is owned by Independent Newspapers. *Independent News and Media (SA) (INMSA)* is the leading newspaper group in South Africa and also owns and publishes various free/community newspapers (INM, 2006).
  
- From the SACat database lists of books in the collections of the ten institutions that form the membership of the Gauteng and Environs Library Consortium (GAELIC) were selected. GAELIC is the largest and most successful academic library consortium in South Africa (FOTIM, 2006). The vast collection of diverse and wide-ranging records present in the collections of the member libraries made this an ideal choice for use in the project.

*ii. Time frame*

Publications published in 2001 were used to determine whether they had been received as legal deposit. 2001 was chosen as publication year rather than a more recent year because of the backlog experienced in the compilation of the South African National Bibliography (SANB) by the National Library. At the time that this phase of the study commenced (in 2006), the SANB was complete up to 2002 with a possibility that some 2003 publications could be included (Battison, 2006). It was therefore reasonable to assume that books published in 2001 and sent as legal deposit would be recorded in the SANB by the end of 2002.

Smaller publishers do not always manage to publish their books in the same year of obtaining the ISBN. To cover this eventuality, the 620 ISBN lists for 2000 were used as well as those for 2001.

*iii. Control database*

The actual SANB published online by the National Library was not the resource of choice against which publications were checked. Due to its user-friendly search facilities, the Publishing Trends Database (PTD), which contains all publications recorded in the SANB, was used instead. The PTD is an enumerative bibliography originally created by the Publishing Studies section at the Department of Information Science, University of Pretoria, to address the need for quantitative data on book publishing in South African (Galloway, 2004: 115). As a result of a unique arrangement with the National Library, the Department receives information of publications concurrently with them being recorded in the SANB. The PTD thus consists of all publications received as legal deposit, is updated regularly, and can be applied for a variety of research purposes (Galloway, 2004: 115) as in the case of this particular study.

**5.4.2.2** *Sampling procedures*

A sampling strategy must be carefully considered and selected to fit the purpose of the study and the resources available (Patton, 2002: 242). For this phase of the study non-probability sampling<sup>11</sup> was considered the most appropriate choice. Although non-probability sampling is not as frequently used as probability/random sampling, it is often the only suitable form of sampling for a specific study (Baker, 1994: 161; Struwig & Stead, 2001: 111). Non-probability sampling is regarded as an appropriate method to use in exploratory research (Fink, 1995: 17; Neuman, 2006: 222) and can thus effectively be applied in projects such as the present one, that attempts to explore undeveloped applications or ideas.

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<sup>11</sup> See also section 5.3.2.3(ii) of this chapter for a discussion on non-probability sampling.

Samples for the feasibility study were selected using a combination of purposive and judgement sampling, which are both forms of non-probability sampling. Purposive sampling concentrates on selecting elements for research that fulfil a specific purpose, and judgement sampling involves specialists or experts that are experienced in the subject matter and have particular knowledge of the subject to select the sample. The combination of these two approaches, using expert judgement to select cases with a specific purpose in mind (Neuman, 2006: 222), presents the opportunity of selecting samples of information-rich participants (Struwig & Stead, 2001: 122), samples of elements that are deemed likely to offer answers to the questions asked in the study (Baker, 1994: 163; Struwig & Stead, 2001: 111), and samples that show characteristics that the researcher is interested in (Baker, 1994: 163; Struwig & Stead, 2001: 111) as is demonstrated below.

ISBNs uniquely identify specific titles and editions of books. The national library is very often the institution responsible for the administration and allocation of ISBNs in a country, as well as being the main legal depository. In such cases it is therefore a logical decision to use ISBNs for the monitoring the delivery of publications as legal deposit (Lor, 1997). The 620 ISBN lists administered by the NLSA were specifically chosen to be used in this study for the following reasons:

- The researcher formerly worked at the National Library, and is knowledgeable about the ISBN system and also had access to the person responsible for the section in the library.
- Using these lists provided the opportunity of obtaining legal deposit compliance figures from a broad range of publishers instead of targeting a small number of individual publishers with their own block of numbers.

- The lists represent smaller or private publishers who are shown in the literature to be most likely to experience problems in complying with legal deposit.

As the data for two years, 2000 and 2001, were used, some indication of the scope of compliance by smaller publishers in South Africa could be obtained.

For the newspaper book reviews, including a major black language newspaper as well as the English and Afrikaans papers used in the study would have been ideal. This, however, was not possible as such a 2001 newspaper with a weekly book review could not be traced. The two newspapers that were selected for the study are based in major cities in the country and have large daily readership figures. This inevitably means that the reviews provide information on a broad spectrum of recent/new publications, covering fiction and non-fiction, for adults and for children, in both Afrikaans and English. As was the case with the ISBNs, accessing the microfilm copies of the newspapers was a practical and logical action as the researcher was familiar with the relevant procedures in the reference section at the National Library.

Using a national/regional databases is another acknowledged means of checking for compliance with legal deposit (Chapman, 1997; Voorbij & Douwma, 1997) and as a former information specialist in an academic library, the researcher is familiar with the products offered by Sabinet Online. The SACat database, and specifically the collections of libraries belonging to the GAELIC consortium were chosen as a sampling unit, because this bibliographic resource represents the collections of all Gauteng Province's major academic libraries, an area not covered by either the ISBN lists or the newspaper book reviews.

### 5.4.3 Collection and analysis of data

Data collection in exploratory research depends on the type of data needed and is often accomplished, for example, by studying secondary sources (Balnaves & Caputi, 2001: 25; Struwig & Stead, 2001: 7). Studying and analysing secondary sources involves using existing data collected by someone else, or collected for a different research project (Baker, 1994: 260; Heaton, 1998; Struwig & Stead, 2001: 40). This is a generally accepted mode of inquiry often applied in quantitative studies (Heaton, 1998) and a common and acceptable way of gathering large sets of data in an economical and time-saving manner (Baker, 1994: 260; Balnaves & Caputi, 2001: 25; Procter, 1993: 256, 257). This form of data collection and analysis was therefore considered ideal for this particular phase of the present study.

Existing documentary sources in the form of ISBN lists, titles of books appearing in book reviews and lists of books in South African academic libraries were accessed. As this was a feasibility study and not a full-blown research project, in-depth secondary analysis of the sources was not aimed at. Sources were simply used to check the records they contained against records of books received as legal deposit so that figures reflecting the level of compliance with legal deposit could be tentatively calculated.

#### 5.4.3.1 *Using ISBN lists*

Photocopies of the lists of all the 620 prefixed ISBNs given to publishers in 2000 and 2001 were obtained from the head of the ISBN section at the National Library. Each individual number was checked against the Publishing Trends Database (PTD). The number of items received as legal deposit, i.e. that appear on the database, were calculated as a percentage

of the total number of ISBNs on the lists. The 2000 and 2001 lists were checked and considered as separate entities.

#### **5.4.3.2 *Using book reviews***

The rolls of microfilm of the 2001 editions of both the selected newspapers were perused in the reference section of the National Library in Pretoria. Copies were made of the weekly book review pages. All these pages were subsequently scanned for books with South African imprints. In cases where the researcher may have been unsure whether a publisher or an imprint was South African or not, help was obtained from the head of the publishing section at the Department, or the PASA publishers' directory was consulted. The titles of the identified books were then checked against the PTD for legal deposit. The number of titles received, i.e. that appear on the database was calculated as a percentage of the total number of titles checked.

#### **5.4.3.3 *Using SACat Database on Sabinet Online***

The Advanced Search option on the online SACat database was used to search for monographs (i.e. books) published in 2001 and available in the various libraries identified for use in the study. Printouts of the lists of books were made. These, as with the book reviews above, were scanned for books with South African imprints. All government publications/books were excluded as this category of publications fell outside of scope of the investigation. The titles of the identified publications were then checked against the PTD and the number of titles received, i.e. that appear on the database was calculated as a percentage of the total number of titles checked.

#### 5.4.4 Evaluation of research methods and techniques used for the second phase of the study

The feasibility study conducted in this phase of the research project was exploratory, using various methods for obtaining data that reflect the levels of compliance with legal deposit. Although reliability in the sense of generalising data/results is not at issue in feasibility studies (Matson, 2000: 3; Patton, 2002: 240; Struwig & Stead, 2001: 7), the validity, i.e. the appropriateness of the methods used in the study (Graziano & Raulin, 2000: 186; Litwin, 1995: 33; Trochim, 2006), and some other factors affecting the quality of results, still needed to be examined.

- *Sampling*

The sampling methods and the choice of sample used in any study determines what the evaluator will have something to say about and is therefore an important factor that will impact on the validity of methods used and subsequently the results obtained (Balnaves & Caputi, 2001: 5; Patton, 2002: 240).

One of the main drawbacks of purposive and judgment sampling is the bias that may result from the researcher or expert's beliefs and choices, and the sample could thus be unrepresentative (Baker, 1994: 260; Cjaza & Blair, 1996: 172). On the other hand, in an exploratory project where data is obtained purposively from specific sources, the personal background of the researcher acts positively as a sensitizer and filter (Fink, 1995: 26; Easterby-Smith, Thorpe & Lowe, 2002: 61). As the researcher in this project was previously employed at the National Library and worked as a subject specialist in an academic library, she had the experience and knowledge to choose the best sampling elements to include in the study. Although the data cannot be generalised for application in other projects

(Matson, 2000:3; Patton, 2002: 240; Struwig & Stead, 2001: 7), this insight into the purpose of the research does provide internal validity to the project (Trochim, 2006).

- *Volume of data*

Analysing data obtained from secondary sources can end up in the volume of available data overwhelming the researcher (Baker, 1994: 260). In the present study, this was experienced only in the case of using Sabinet Online where the collections of the majority of public, academic and other libraries in southern Africa are represented. Selectivity was therefore exercised and records from academic libraries that formed part of the GAELIC Consortium only were used, which reduced the volume of data considerably.

- *Conceptualisation of data*

One of the main challenges in analysing secondary sources lies in conceptualising the data to fit the research question (Proctor, 1993: 263). The quality of the data obtained is an important factor in this regard. Conceptualisation will depend on the original purpose for collecting the data, the intended audience, and the coverage of the data (Baker, 1994: 260; Proctor, 1993: 257). To address this problem, and effectively re-create and analyse the data, it is best to employ an experienced and specialised researcher (Baker, 1994: 260; Heaton, 1998; Proctor, 1993: 257). In this particular study, the researcher had the needed knowledge and experience with the data elements used in the project and the context in which the data was originally collected. Where it was deemed necessary, persons knowledgeable in a specific area, for example, the head of the Publishing Studies section at the Department, and the various heads of sections at the National Library, were consulted.



#### 5.4.5 Other attempts at obtaining compliance figures

The feasibility study discussed in the preceding section represents this study's "formal" inquiry into compliance with legal deposit. Other approaches and methods to obtain compliance figures were also considered, but with less success. It is not customary in a research study to document unsuccessful and/or unused research endeavours in the final report, but because this second phase of the project was purely exploratory, a short review of these unsuccessful or partly successful research efforts is also useful. The results of these attempts could be of value for future researchers and/or legal deposit practitioners as examples of methods to avoid in future to prevent similar mistakes as well as providing information on methods that could perhaps be adapted and used more successfully.

##### *5.4.5.1 Obtaining lists of publications from individual publishers and printers to check for legal deposit compliance*

Letters were sent to 94 publishers listed in the PASA publishers' directory asking for a list of their publications published in 2000. Similar letters were sent to 112 printers whose names were obtained from the membership list of PIFSA (Print Industries Federation of South Africa). Follow-up letters were sent after two months to all the publishers and printers from whom responses had not been received.

Of the 94 publishers that were contacted, 24 responses were received but of these only 18 provided their lists of publications, i.e. 19% of the total. Of the six that responded without sending a list, five apologised saying said that they had not published anything in 2000. The one other publisher was not interested in providing the information.

Of the 112 printers who were contacted, 42 letters or phone call responses were received. However, lists of publications were provided by only nine of the printers, representing approximately 8% of the total, all of which were printers of newspapers. No lists were received from book printers. The main reason for this, provided in the responses received from the book printers, was the question of client confidentiality; they felt that they print on behalf of publishers and therefore could not divulge any information. Staff, time, and resources were other reasons given for not sending lists. Also some of the respondents were actually bookbinders and printers of stationery and so forth rather than printers of books.

The decision was thus made not to proceed with this method, as the response rate was too low to provide meaningful results. The lists that were provided came mostly from larger publishers and this, in addition to the low response rate, would not have provided a true representation of the publishing sector in South Africa.

#### *5.4.5.2 Obtaining lists of publications in a specific category of publication to check compliance with legal deposit*

This effort involved obtaining lists of publications from publishers in the Garden Route area of South Africa. The Garden Route, running along the south-western coast of the country, is an important tourist destination and the assumption was that books and other similar publications with information for tourists would be abundantly available. The seven larger towns that are central destinations on the Route were targeted. E-mails were sent to the librarian of the town library (where a library existed), to the information officer at the tourist information centre (every town had one listed), and to the manager at the local or area municipal offices. A total of 16 e-mails were sent. Only eight of the e-mails went through successfully and of the remaining eight that were presumably received by

the relevant persons, only one response was received. With this low response rate this project was also deemed not viable for the research project and no follow-up was undertaken.

#### *5.4.5.3 Obtaining information in a specific category of publications from research done by previous researchers*

Incidental compliance statistics were obtained from a research project investigating the production patterns of Afrikaans youth and children's literature (Snyman & Venter, 2004). To establish the total number of titles published within a certain time period, and identify all the publishers of Afrikaans youth prose, records of these particular publications were identified using Dewey classification numbers and extracted from the PTD. It was assumed that the PTD, representing the SANB (South African National Bibliography), would fully reflect all titles published in this category in South Africa (as discussed in section 5.4.2.1(iii) of this chapter). However, Snyman and Venter who are both knowledgeable in the field, found the results of this initial round of data collection were not a true reflection of what they knew was actually available. Missing publishers were subsequently traced and lists of their publications added to the PTD list. These lists were obtained essentially through the personal contact that one of the researchers had with the specific (missing) publishers. This discovered incompleteness of records led the researchers to assume that not all publishers deliver their publications for legal deposit as is required, and to calculate compliance percentages for all the publishers who publish books in this category. Compliance figures for 2000 and 2001 for ten publishers with a total of 106 records were obtained. As this method of acquiring compliance figures did not correspond with the general approach followed with the other exercises, and required the intervention of external role players outside the legal deposit arena, it was

decided not to use the method and results of the study for this research project.

## 5.5 *Summary*

This chapter described the empirical research project conducted to address the central research question identified for this investigation. To understand what the publishers and libraries think about and how they act upon the issues surrounding legal deposit and its practical implementation, in-depth surveys in the form of semi-structured interviews were conducted. Supplementing this phase of the investigation, a feasibility study was subsequently conducted to obtain figures reflecting the percentage of items received as legal deposit over a specific time period. Mention was also made of unsuccessful attempts at obtaining compliance figures.

A detailed exposition of the methodologies and procedures followed in conducting the two phases of research was provided and most significantly, these approaches and methods were evaluated according to accepted criteria to confirm the quality of the methods and of the results ensuing from analysis of the data.

All of this provided the foundation for the analysis of the data. This is covered in the next chapter (Chapter 6). The information contained in these two chapters (Chapters 5 and 6) is the basis for the final assessment of the investigation was performed and recommendations for the future.

## 6 Research outcomes

### 6.1 *Introduction*

The research described in the previous chapter was conducted in two phases, each with its own purpose and methodology. Using semi-structured interviews the first phase of the project aimed to obtain in-depth information on the ideas, opinions, experiences and behaviour of publishers and legal deposit libraries with regard to issues surrounding legal deposit. Although the first part of the interviews consisted of set questions, they were loosely structured to allow for the introduction of additional topics by the interviewees. For analysis purposes, all the topics covered were grouped together into themes. Open-ended questions concluded the interviews. Formal thematic coding principles were applied to organise these responses. Phase two was a feasibility study conducted with the aim of obtaining figures that reflect the state of compliance with legal deposit. Existing sets of data within selected elements were identified, processed and subsequently analysed.

The analysis of the data gives a clear picture of the topics investigated. This chapter presents the findings of the research obtained by analysis and organisation of the data.

### 6.2 *Outcomes of interviews with publishers and libraries*

Here the content of the transcribed interview tapes is analysed with the various themes identified during the course of the interviews examined individually. The themes are grouped into the larger categories, some pre-

determined by the set questions and others that emerged during the open-ended questions. These themes were grouped and organised according to accepted coding principles. Where themes and issues coincide, the views of the publishers and of the libraries are provided together, to aid comparison. Where this juxtaposition was not possible or feasible, themes are dealt with separately for the two groups of participants.

### **6.2.1 General questions asked**

This first group of introductory questions were used to develop rapport between the interviewer and the participants (Berg, 1998: 66), and to gather some important background information for understanding the participants and the organisational environment in which they function and deal with legal deposit.

#### **6.2.1.1 *Awareness of legal deposit in the organization***

##### *Response of publishers*

A third of the managing directors of larger and medium-sized publishing houses said that they actually knew very little about legal deposit themselves and had therefore asked someone who was knowledgeable and/or responsible for legal deposit to be present for the interview. Owners of smaller publishers mostly knew what legal deposit entailed but at least half of them were unable to name all five of the legal deposit libraries and/or were unsure as to how many libraries there were. Ninety percent of the interviewees admitted that they did not think that anyone else in the organization was aware of the existence of legal deposit.

##### *Response of libraries*

According to the persons interviewed, legal deposit is never discussed in their library or at meetings in general. Only *ad hoc* discussions occur

between persons working with legal deposit when problems are encountered. One library admitted that they felt this was not good enough, as legal deposit was to some extent the reason for their existence. The libraries believe that publishers were generally well informed concerning legal deposit. Only one group mentioned that smaller publishers might be ignorant.

### ***6.2.1.2 Awareness of authors about legal deposit***

#### *Response of publishers*

Not one of the publishers thought that their authors knew about legal deposit, and all said the issue is never discussed with them. Three of the managing directors said that they can see no reason to inform authors as they bear no responsibility for legal deposit.

#### *Response of libraries*

The issue of informing authors about legal deposit arises only when individual authors apply for ISBNs, when they are automatically provided with information on all the institutions that have to receive copies of their publication.

### ***6.2.1.3 Administrative procedures with regard to legal deposit***

These questions were asked of publishers only; administrative and other similar questions concerning libraries specifically are dealt with later in section 6.2.5.

#### *i. Responsibility for delivering material*

Delivery of legal deposit material is mostly combined with and general procedures surrounding delivery of free or complementary copies of material for promotion and marketing, especially in the larger publishing

concerns. The more established and larger publishers could not give a definitive account of procedure around legal deposit, saying that it is part of the system, a habit, a duty, something “inherited” from a previous system, that “we just do it”. Medium-sized publishers usually had one administrative person responsible for legal deposit together with many other duties, as is the case with smaller publishers as well. In sixty percent of these medium and small publishers, delivery of legal deposit material is not part of the “system”; rather the person responsible has to “try and remember” to send the publications regularly.

ii. *Control mechanisms*

Half of the publishers have no specific mechanisms for checking that their legal deposit material is sent to the libraries, but at least seventy five percent keep lists of material sent as part of the general system of free copies. At two of the institutions that have a specific person working with legal deposit, lists of what is sent to the individual libraries are kept and so they can trace the information if necessary. Two publishers mentioned that they used to send publications by registered mail, which guaranteed delivery, but do not do so any more as it is too expensive.

## **6.2.2 Questions concerning the purpose of legal deposit**

Before the respondents were asked questions about specific issues covered in legislation, the core aims of legal deposit had to be touched upon, to both inform them of the aims of legal deposit and to find out what their opinions were concerning the purpose of legal deposit.

### **6.2.2.1 *Preservation of the nation's heritage***

#### *Response of publishers*

The idea of preserving publications elicited a general positive feeling from thirty percent of the publishers. They feel it is good for future generations,



and that the archival function is needed in a “civilized country”. The rest of the publishers, however, offered no comment on preservation, except for one who said it has a definitive “dusty feeling” to it.

#### *Response of libraries*

The libraries all agreed that preservation is a very important function of legal deposit, as the collections serve as a national heritage, are important for research, and it aids in making available publications not available anywhere else, are out of print, or unaffordable. The libraries furthermore felt that publishers should regard legal deposit and the preservation of publications as a social responsibility, and that they should be proud of giving their work. One library did suggest that publishers might think that legal deposit was a way of getting free copies for their own use.

#### **6.2.2.2 *Public access to the legal deposit collection***

##### *Response of publishers*

One publisher felt that access to publications delivered as legal deposit in the libraries was good, as availability generates sales. Another, who remarked that library users are also book buyers, underscored this feeling. Forty percent of the publishers offered no comment on the accessibility of the legal deposit collection to the general public. The rest were not optimistic about the issue, as they felt that access and free use of publications meant fewer people might buy the books. Access *via* interlending is felt to be another danger to sales. One publisher felt that access would be acceptable if it was also used as a form of marketing by the libraries.

##### *Response of libraries*

Excepting for the Library of Parliament, where access is limited to parliamentarians only, the public can make use of the collections of all the

deposit libraries in the reference section where books are not to be taken out, and through interlending facilities. In one library, however, legal deposit material and general library material was not strictly separated anymore due to lack of staff and finances. The general feeling in all the libraries is that interlending does not contribute to people or other libraries such as public libraries, not buying material.

### ***6.2.2.3 Creation of a national bibliography or other databases of legal deposit material***

#### *Response of publishers*

The majority of the publishers had no opinion about the function or compilation of a national bibliography, as they did not seem to know what such a thing is. The twenty percent who were informed believe that bibliographies must be Web-based and more up-to-date so as to possibly aid publishers themselves in checking and delivering their legal deposit material.

#### *Response of libraries*

The libraries said that their legal deposit material is catalogued for their individual library purposes and could be listed separately from other material in their collections if necessary. They all indicated that they would like the records of the legal deposit collections of all five libraries to be on one system. Pretoria, which is responsible for compiling the South African National Bibliography (SANB), expressed a concern that the SANB is not up-to-date.

### **6.2.3 Opinions on the major issues covered in legal deposit legislation**

This section of the interviews consisted of questions on various issues covered by legislation, and issues from the literature that are important for both publishers and libraries in the practical execution of legal deposit.

#### **6.2.3.1 *Number of copies to be deposited***

##### *Response of publishers*

A quarter of the publishers said that delivering five copies of their publications as legal deposit is no problem. One said that delivering multiple copies is a good thing as it ensures safe preservation, and another supported this, although not enthusiastically. The rest of the publishers expressed varied, more negative, opinions on depositing, such as five copies being “too many”, “silly”, or “totally unnecessary”, and that “one place (for depositing) seems enough”.

##### *Response of libraries*

One library felt that there should be fewer deposit libraries; Pretoria and Cape Town would be enough, since Manguang and Msunduzi, being public libraries, are unnecessary. The other four libraries had no opinion as to the number of depositories. A consistent observation, however, was that publishers are very often confused about the number of copies to be delivered and thus send each individual legal deposit library five copies of each of their publications.

### 6.2.3.2 *Costs*

#### *Response of publishers*

Bigger and medium-sized publishers had no problems with the cost of delivering copies of their publications for legal deposit, as the cost of free copies is worked into their production and marketing costs. All believe that smaller publishers, smaller print runs or very expensive publications could present problems.

Three of the publishers in the educational sector did have a problem with costs, as they have to deliver many free demonstration copies to the Department of Education. These publishers say that “everyone” is always asking for free books and especially if a company publishes in various languages, a free legal deposit copy is lowest on a long list of priorities.

One smaller publisher admitted to having stopped sending legal deposit copies because of costs; their manager feels that the legal deposit libraries should bear the costs. This, he felt, would also encourage smaller publishers to get into the “business of depositing”. Only half of the other smaller publishers, however, have a problem with the costs associated with delivering five copies of their publications, with the rest being non-committal on the subject.

#### *Response of libraries*

One problem with costs from the libraries’ point of view arises when all five copies are sent to one library (very often to Pretoria) and the publishers then expect the library to reroute the copies to the other four libraries, which cannot be done. It often comes as a shock to the publisher to hear of this mistake and the unexpected cost-factor implied. Three of the libraries said that smaller publishers are often upset at the high cost of

postage and some sometimes became “downright rude” because they feel that they are losing money in the process.

### **6.2.3.3 *Time of delivery***

#### *Response of publishers*

Ninety percent of the publishers interviewed wait for a good number of books to accumulate before sending them to the legal deposit libraries. Or, when publishing many books at a time they send them “as soon as the boxes are full”. Other responses regarding time of delivery were: “as soon as the books are ready”; and “sort of when we remember”. With the exception of one publisher, nobody seemed to bother or even know about the directive as to the time of deposit set out in the Act. The majority of the publishers, after being informed about the 14-day delivery period stipulated in the Act, felt that the requirement was not acceptable.

#### *Response of libraries*

The libraries concurred that the 14-day period for delivery of books was very seldom adhered to. Smaller publishers send their publications every 6 months or so whilst larger publishers filled a box and then send. The general opinion was that “as long as they send” the libraries do not have a problem with time of delivery.

### **6.2.3.4 *Types of publications to be delivered***

#### *Response of publishers*

All the publishers are aware of their obligation to send not only print material, but also accompanying non-print material such as CDs accompanying books, for legal deposit. Educational publishers indicated that they regard everything that they produce as a “publication” which

means that posters and pamphlets are given individual ISBNs but that only in some cases is this type of material sent as legal deposit. Only one publisher admitted to sending copies of reprints to Pretoria as is stipulated in the Act. Reasons for not delivering reprints were stated as: “because it is not a new edition”, “because it does not have a new ISBN”, and educational publishers said that, because they are constantly reprinting on demand, it is impossible to send a copy of every reprint. Most of the publishers do not as a rule keep copies of reprints in their archive, as only one said they would be able to supply back copies of reprints if asked for by the libraries.

The majority of the publishers have never asked for exemption from depositing specific types of material, as the need had never arisen. Only one publisher could recall a case of an expensive leather-bound edition of a book for which exemption from delivering five copies was asked and granted. Two publishers said they would ask for exemption in the case of a luxury publication, but were not sure when a book would be regarded as an expensive or a luxury edition, or how “serious financial hardship” as stated in the Act, should be interpreted. Educational publishers mentioned that the Library of Parliament exempted their material from deposit.

#### *Response of libraries*

A problem mentioned by the libraries is how to decide whether a publication is actually a publication, especially if it has been given an ISBN though it is just a type of pamphlet. Similar problems are experienced with publications such as university calendars or diaries, which have ISBNs, and are received as legal deposit by the libraries. Music scores are a problem for one of the libraries, which is unsure whether these are seen as a publication that had to be deposited or not. Four of the libraries felt that there should be clearer guidelines in the Act

or at least consensus amongst the libraries themselves concerning the problems they experience with interpreting the regulations and delivery of types of documents.

Most of the libraries were happy with whatever other material they were receiving; videos, CDs, books with an accompanying CD, and so forth. All the libraries say that changes might come with delivery of videos and sound recordings with the National Film, Video and Sound Archives now also being a place of legal deposit, but were not sure how this is to be handled in future. Three of the libraries expressed concern about the delivery of official publications saying that there seem to be different interpretations of what a government/official publication is and how the provision of OPDs in the Legal Deposit Act is to be interpreted in practice. The National Library, Pretoria Campus, the library that is designated to receive reprints, made no specific mention of problems experienced with such publications.

The Library of Parliament is the only institution that makes regular exemptions from depositing in the case of schoolbooks, textbooks, religious material (excepting those with a political slant), “trashy” novels, popular journals etc. The other libraries could not provide any examples of guidelines or decisions regarding exemptions for specific types of material in their institutions, and on the whole could not remember many cases where a publisher asked to be exempted from delivering copies of a publication. Manguang Library mentioned that they contacted Msunduzi once or twice to verify a query. One case concerning a possible “luxury edition” of a book was referred to the Legal Deposit Committee by the Msunduzi Municipal Library. The libraries all say that it is very difficult to define what a luxury or expensive edition of a book entails as monetary values change year by year.

## 6.2.4 Questions asked about communication between publishers and libraries

Communication is identified in the literature as an important factor for the successful attainment of goals (Gordon, 2005: 114; Shockley-Zalabat, 1995: 6). It was therefore necessary to ascertain how satisfactory the communication channels are between publishers and libraries, for the publishers to be well informed about their legal deposit responsibilities and for the effective administration and enforcement of legal deposit by the libraries.

### 6.2.4.1 *General communication between legal deposit libraries and publishers*

#### *Response of publishers*

According to the publishers very little, if any, communication occurs with the libraries. Not one of the people interviewed knew the name of the person who was responsible for legal deposit in any of the libraries. Twenty percent of the publishers knew the name of the person responsible for ISBNs in Pretoria. One publisher complained that no acknowledgement of receipt of books is ever given.

#### *Response of libraries*

Libraries on the other hand, often find it difficult to find a consistent 'someone' with whom they can communicate at a publishing house. Libraries do not acknowledge receipt of publications unless specifically asked to do so by a publisher (which happens very rarely). The sending of receipts was discontinued, as it required too much time and money.



#### **6.2.4.2 *Communication between libraries and publishers regarding non-compliance***

##### *Response of publishers*

Only two publishers said that they had been contacted with regard to non-delivery of books. Both cases were resolved easily. Only one publisher was aware that legislation provides for the institution of proceedings and/or penalties for non-compliance. The other publishers had no idea of the possibility of such legal action.

##### *Response of libraries*

Claim forms are sent to publishers asking for outstanding books when a library becomes aware of missing material. On the forms used by all the libraries, it is clearly stated that copies must be sent to the four other libraries as well. In addition, the ISBN forms from the National Library in Pretoria also state how many copies must be delivered and where they must be sent. In spite of having received ISBNs (and the accompanying information), many smaller publishers, say the libraries, claim not to know about legal deposit when approached by library staff regarding their depositing of material.

#### **6.2.5 *Issues concerning the libraries specifically***

Some aspects concerning the implementation of a legal deposit system in the country pertain to legal deposit institutions specifically. The following set of questions was therefore asked of the libraries only.

#### **6.2.5.1 Mechanisms to trace publications subject to legal deposit but not in the collection**

In all five libraries this issue seemed to be very *ad hoc*. No regular procedures are in place and no one person is assigned the task of making sure that material subject to legal deposit is traced. Responses when queried about procedures varied e.g.: subject librarians would become aware of books not in the collection; or someone becomes aware of something in other sections of the library; scrutinizing advertisements, pamphlets, newspapers, catalogues from publishers, and book reviews can highlight gaps; walking around in bookshops randomly “checking” for unknown titles, is also very popular. All the libraries admitted that none of this is done as part of a regular routine at regular intervals. Not one library uses the SANB to check for deposited material against their own collections. The Publishers Directory compiled by the National Library is used only to get the addresses of publishers. ISBN duplicate lists are “sometimes, but not really often” used in Pretoria as a means of monitoring legal deposit.

#### **6.2.5.2 Procedures in cases of non-compliance**

Procedures around this issue are the following: some of the persons interviewed discuss problem cases with their head of department; all the libraries send claim forms; others in addition to the form send a letter or e-mail reminder, with all the libraries following these actions up after about a month. Up to three follow-ups is the norm; “never give up” seems to be the motto. The letters/claim forms do contain the “compliance threat”, but not one person knew of a case where a fine was actually levied.

One of the complaints around procedure was that a lack of staff means that follow-up on non-compliance is done in existing staff’s “spare time”, hoping that “stuff would trickle in”. In Pretoria the backlog in processing

the material has resulted in staff being unable to do any checking, but this is being addressed.

The main problem raised by the libraries regarding enforcement of compliance was that they do not really know what to do in cases of publishers not depositing the required material (apart from sending reminders). No one was aware of specific prescribed procedures to follow. One person mentioned that she would love to take a particular publisher to court, but with the system as it is, she can only keep on sending reminders however frustrating this is.

### **6.2.5.3 *Problems surrounding delivery of books***

According to the libraries publishers give many different excuses for not delivering their publications, but in the case of smaller publishers, it is usually just that they “forgot”. Larger publishers on the other hand tend to assume their systems are in place and do not believe that a book has not been received. One of the libraries expects publishers to prove that a publication has been sent or they have to send another copy. Another library believes publishers if they say that books have been sent, and gets missing items on interlending to make photocopies as allowed for by the Act.

Other problems mentioned are that smaller publishers often complain about the costs of postage, that many are ignorant of the Legal Deposit Act, and that government departments specifically create many problems for the libraries when it comes to delivering material. The lack of communication (mentioned under section 6.2.4.2) is a recurring complaint especially when libraries try to contact publishers about non-compliance.

#### **6.2.5.4 *Communication between legal deposit libraries***

All five libraries regard communication with the other libraries as being practically non-existent on their levels though they think that communication on higher level probably takes place. Only Manguang and Msunduzi mentioned that they are in contact on a fairly regular basis. All the libraries mentioned this lack of communication as a problem for the successful implementation of legal deposit legislation, as each institution was “doing its own thing in total isolation”.

#### **6.2.5.5 *Communication with the Legal Deposit Committee***

The legal deposit libraries all said that their communication with the Committee is most unsatisfactory. The following points were raised:

- The libraries know very little about how communication with the Committee works as this was done on “higher level” only.
- Very little feedback is given to the “ordinary workers”; persons working with legal deposit report problems to the head of department but they then get no feedback.
- The library staff have very little “clout” with the Committee and do not know why things are not followed up. Lack of follow-up was mentioned often.
- No directions or guidelines are given on problem issues.
- The Committee meets and discusses policy and so forth, but does not seem to discuss smaller issues as well. Individual libraries question whether the Committee pays any attention to their

problems as they cannot see that Committee members would actually go through lists of problems at the meetings.

- The opinion was offered that the individuals such as library directors who attend committee meetings, have either never worked with legal deposit or did so very long ago and thus do not really know what is going on.

### **6.2.6 Responses to general open-ended questions**

The following themes emerged from general open-ended queries on i) what actions could be undertaken to trace the “untraceable” publishers, and ii) any further opinions on aspects of legal deposit that may not have been covered during the interview. To facilitate responses it was occasionally necessary to ask probing questions to draw out more complete information from the participants (Berg, 1998: 67).

#### **6.2.6.1 *Specific suggestions for tracing non-compliant publishers***

- i. The role of PASA (Publishers Association of South Africa)

##### *Publishers*

One of the first things mentioned by forty percent of the publishers during the open-ended question session was the possibility of PASA playing a role in legal deposit. They felt that legal deposit could be actively promoted through the association, that books and publishers could be traced through them, and that they could play a significant role especially in to guiding and informing upcoming publishers about their legal deposit obligations.

### *Libraries*

The libraries also believe that PASA could play a significant role in the legal deposit system. They felt that they as legal deposit libraries should become involved with publishers at all levels, specifically in becoming members of PASA, and going to PASA conferences.

- ii. Use of ISBNs (International Standard Book Numbers)

### *Publishers*

Half of the publishers interviewed mentioned the role that ISBNs could play in monitoring legal deposit. Publishers not complying could be traced easily through ISBNs provided by the National Library in Pretoria: as one interviewee put it, “they give us the numbers, they should check”. In addition publishers regard it as an automatic form of control, mainly because no book can be sold without an ISBN in major bookshops. One publisher did venture the (critical) opinion that even though the legal deposit libraries do have access to the numbers, no control seems visible.

### *Libraries*

That ISBN lists should be used for tracking publications was the general opinion of all five the libraries, although they admit that this is not done in practice. Better communication about legal deposit compliance is possible, if it could be established between the libraries that the ISBN lists from Pretoria were distributed to all the libraries to serve as a control mechanism.

- iii. Back-of-title-page and similar type of information

### *Publishers*

One of the publishers suggested that every book published should contain a statement on the back of the title page that a copy of the title has been

sent as legal deposit. This would have the added advantage of creating awareness of legal deposit among readers.

#### *Libraries*

The libraries on the other hand proposed CIP (Cataloguing in Publication) as a possible tracing mechanism of errant publishers, also saying that a “pre-cataloguing” (i.e. CIP) service would add overall value for publishers.

### **6.2.6.2 Further general suggestions for tracing errant publishers**

#### *Publishers*

Thirty percent of the publishers mentioned that it would be a good idea to target printers to provide legal deposit information to the smaller publishers, and one publisher suggested that printers should provide publications as legal deposit, by law, as publishers have to.

Three educational publishers felt that books could be traced through the Department of Education as they would have lists of the books used in the schools all over the country.

Another opinion was that “someone” needs to create a common database of all the publishers in the country; this would be not only of publishers belonging to PASA but a type of compulsory association representing everyone in the book as well as journal publishing business, which could then also serve as a control and tracing system for legal deposit.

#### *Libraries*

Three of the libraries suggested establishing a type of inter-library sub-committee (of the official Legal Deposit Committee) of legal deposit

librarians that could serve as a forum for handling legal deposit problems. This sub-committee would not necessarily have to meet regularly, as this would involve extra costs, but could communicate via e-mail on a regular basis.

A further suggestion was that an outside legal person could be employed, as is done in Hungary, to track missing material.

The most common “wishes” expressed by the libraries are that a system for following-up non-compliance, and for the Legal Deposit Committee to take a stronger stand against non-complying publishers; as one library put it, to “make an example of them”.

### **6.2.6.3 Other issues emerging from the open-ended questions**

- i. Creating awareness of legal deposit among publishers

#### *Publishers*

About sixty percent of the publishers agree that publishers should be made more aware of legal deposit, because even established publishers are ignorant, and especially smaller businesses need “to come aboard”. As staff changes occur regularly, new staff members have to be informed about legal deposit on a regular basis.

#### *Libraries*

The libraries felt that publishers should not only be educated in legal deposit but also made aware of the practical functions of the legal deposit libraries, for example archiving books. One suggestion was that the libraries should have information on their Web sites about legal deposit, in the form of a call to publishers, not “legalese”. Another library had the



idea that there should be a central place, e.g. Pretoria, where a new publisher should be registered as a business and provided with an information package explaining legal deposit and the Act.

ii. Staying informed and up-to-date

*Publishers*

The publishers suggested that the legal deposit libraries should produce regular updated lists of new publications received as legal deposit. Such a “new books” list would carry a positive message to publishers. The lists could also help the publishers to check their “own stuff”. As an added-value initiative, the lists could be distributed to other libraries, specifically provincial/public libraries, who could then buy the books.

*Libraries*

Libraries also mentioned regular lists of new publications for distribution to publishers and the public. The wish was expressed that Pretoria had a system to let everyone know on a regular basis what they received. The ideal would be if all the libraries were on one list and their web pages were linked which would, in addition, facilitate comparison and tracking. Other suggestions included sending distribution lists to publishers with “witty reminders” of their legal deposit obligations, and having a form on the libraries’ Web sites that publishers could complete to indicate their own new publications. Pamphlets could also be sent out on a regular basis as general reminders to all publishers to deposit their new publications.

iii. Use of the SANB (South African National Bibliography)

*Publishers*

Eighty percent of the publishers interviewed were not aware of the national bibliography (see section 6.2.2.3 of this chapter). It was therefore

significant that one of those who did know said that it is imperative that the bibliography be kept up-to-date as it could serve as an important means of communicating with publishers and with the other libraries with regard to legal deposit acquisitions.

#### *Libraries*

The overall wish expressed by the libraries was that, instead of each library compiling its individual list of legal deposit acquisitions, the legal deposit collections of all five libraries be on one list, on the Web. Such a joint catalogue would not only serve as a valuable control and communication mechanism, but would also mean that cataloguing was not done “five times over”. That Pretoria is finding it difficult to keep the SANB up-to-date is a possible current constraint on implementing the idea.

#### iv. Marketing and promotion

#### *Publishers*

The publishers were convinced that if any marketing campaign is to be successful, the benefits of legal deposit must be promoted and “sold”. The general public and publishers must be made aware of their “vested interest” in the preservation of the nation’s heritage. Suggestions for marketing included publishing articles on legal deposit, advertising in newspapers, and television promotion, which “would be wonderful” as a wide spectrum of people could be reached.

#### *Libraries*

The libraries believe that the Legal Deposit Committee must become involved in actively promoting legal deposit. They stressed that the libraries should not pay for any marketing, which should be a government responsibility. Radio, newspapers and television were

mentioned as possible vehicles for marketing. The libraries furthermore suggested that library schools should become involved in legal deposit and that there should be more active contact between the Legal Deposit Committee, the libraries, PASA, printers and bookshops. The general consensus is that marketing and promotion must be an ongoing process and not a “once-off” exercise.

#### **6.2.6.4 *Final opinions about legal deposit***

##### *Publishers*

When prompted on the issue, about a third of the publishers said that they can see no benefit in legal deposit for them or for the public. However, other publishers did mention that legal deposit serves the following (beneficial) functions; it ensures a record of what is available, is a form of free advertising, exposes the name of a publisher, helps with availability of out-of-prints, is important for research and reference purposes, and has copyright advantages. Two of the larger publishers admitted to not having archives of any of their material and one publisher in Cape Town said that they relied on the National Library’s having a copy of their publication if the publisher needed it.

##### *Libraries*

Libraries were generally convinced of the need for a legal deposit system, but some negative emotions can be detected in the following verbatim remarks by different people in four of the libraries: “Considering how casual the approach to legal deposit is, it is a wonder the system works as well as it does”; “Why does legal deposit have such a low priority here in South Africa?”; “The system very obviously does not work – perhaps changes in the Act are needed”; “The Act is vague on many issues e.g. the

problem of disposal of material “; and “How necessary is legal deposit really in the bigger picture in South Africa?”

### ***6.3 Results obtained from the feasibility study***

The final results obtained from the feasibility study are summarised and presented in the form of tables, bar charts and pie charts. This provides for easy comparison between the compliance figures obtained for the different categories of publishers from the various sources used in the study.

#### **6.3.1 Analysis procedures**

Data for this phase of the research, as was discussed in chapter 5, was obtained from the 2000 and 2001 lists of ISBNs with a 620 prefix, from weekly book reviews that appeared in the 2001 editions of an Afrikaans and English daily newspaper, and from books with a 2001 publication date featured in collections of academic libraries belonging to the GAELIC Consortium on the SACat database. These items were all individually checked against the PTD to ascertain whether they had been received as legal deposit. The items received as legal deposit were calculated as a percentage of the total sum of items checked within each of the above-mentioned categories of data elements used in the study.

As a further exercise, the publishers whose books appeared in the book reviews and on the SACat lists were divided into categories of small, medium and large publishers to correspond with the categorisation of publishers in the first phase of the study. For the purpose of comparison, percentages of items received as legal deposit were then individually calculated for these groupings.

Finally it was decided to look at the compliance percentages of smaller publishers specifically as they were identified as a possible problematic area (see Chapter 3, section 3.2.4.3 and Chapter 4, section 4.2.4). Percentages obtained for the smaller publishers from the book reviews in the two newspapers and the SACat database were compared to the results obtained from the 620 ISBN lists that included private and once-off publishers.

### 6.3.2 Findings

Analysis of the data indicated that:

- Medium-sized publishers showed the highest compliance figure of 76%.
- Large publishers followed with a very similar average of 73%.
- Smaller (commercial) publishers lagged behind quite significantly with a compliance figure of 51%, with the average for the 620 ISBN lists only reaching an average of 29%.
- When this latter 620 figure is included in the overall calculation, the average compliance figure for small publishers comes to 40%.

For ease of comparison the data obtained from the above analysis is summarised in the tables and figures presented below.

### 6.3.2.1 Average compliance percentages: Table 6.1

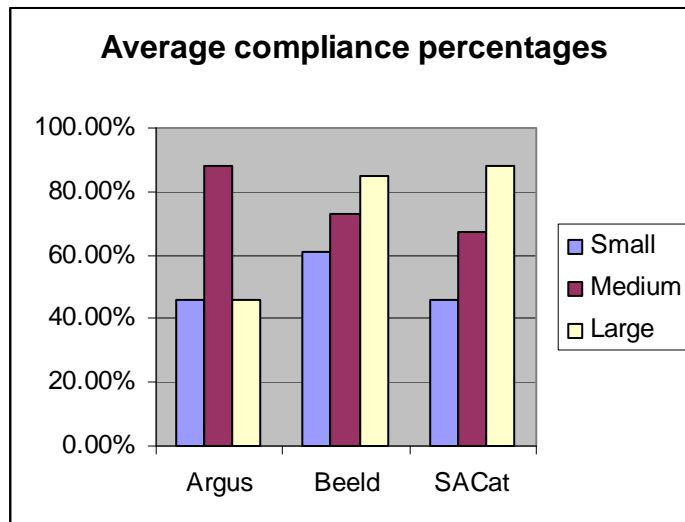
This table shows the percentages of publications received as legal deposit for the year 2001, with the exception of the ISBN lists which reflect percentages for 2000 and 2001, for small, medium and large publishers.

**Table 6.1: Average percentages of publications received as legal deposit**

	Small publishers	Medium publishers	Large publishers
Afrikaans newspaper book reviews	61%	73%	85%
English newspaper book reviews	46%	88%	46%
Sabinet SACat database	46%	67%	88%
Average compliance % 620s excluded	51%	76%	73%
620 ISBN lists	2000=30% 2001=28% <i>Average 29%</i>		
Average compliance % 620s included	40%		

### 6.3.2.2 Comparative compliance figures: Figure 6.1

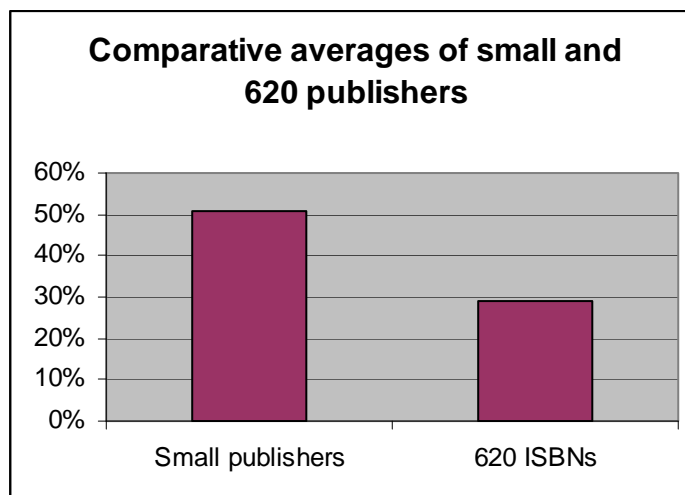
The bar chart in figure 6.1 offers a visual comparison of the differences in compliance levels between the small, medium and large publishers as obtained from the studies involving the two daily newspapers and the SACat database. The ISBN lists are excluded here as they represent only the one category of small publishers.



**Figure 6.1: Comparative average percentages of the three categories of publication lists used in the feasibility studies (excluding the 620 ISBNs)**

**6.3.2.3 Comparative compliance levels of smaller publishers: Figure 6.2**

This chart demonstrates the significant differences in compliance percentages between the small (commercial) publishers listed in the two newspapers and on the SACat database i.e. 51%, and that of the publishers found on the 620 ISBN lists i.e. 29%.



**Figure 6.2: Comparison of compliance averages of small commercial publishers and small/private publishers with 620 ISBNs**

#### 6.3.2.4 Comparative distribution of compliance averages: Figure 6.3

In figure 6.3, the pie chart clearly shows the low (40%) compliance level of all the small and/or private publishers (including those with 620 ISBNs), compared to that of medium publishers (76%) and large publishers (73%).

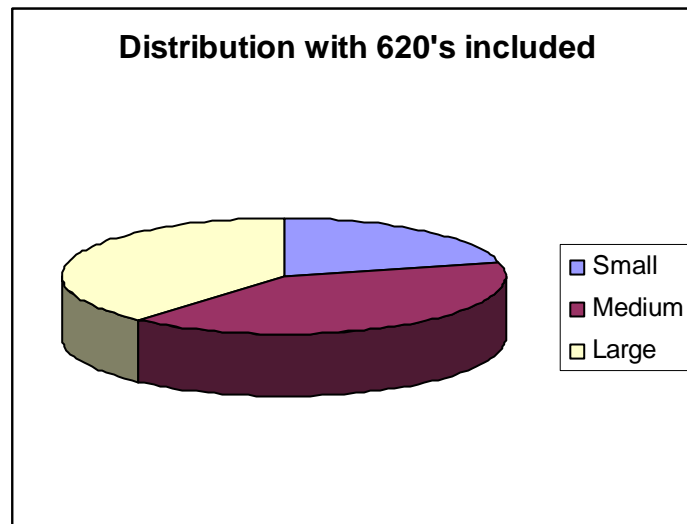


Figure 6.3: Comparative representation of the averages of compliance of large, medium and small publishers in the overall sample of records that were checked

#### 6.4 Discussion of outcomes

Interpretation and assessment of the empirical results are presented in the next chapter (chapter 7), which offers guidelines and future recommendations for legal deposit implementation. However, to draw together the outcomes of the research, to highlight significant data and, in some cases, to find meaning for the results obtained, the following points are highlighted:



### 6.4.1 Interviews

The qualitative interviews conducted with publishers and legal deposit libraries provided valuable insight into their unique views regarding the legal deposit system and implementation. Some of the main problem areas highlighted were the following:

- Uncertainty regarding certain issues covered by legal deposit legislation.
- Lack of procedures for delivering legal deposit material by the publishers.
- General lack of policies and procedures for monitoring and enforcing compliance.
- Lack of communication between libraries and publishers, between the legal deposit libraries, and between the libraries and the Legal Deposit Committee
- Need for creating greater awareness of the value of the legal deposit system for publishers and the general public.
- Perceived lack of state support for legal deposit manifested in insufficient attention and action by the Legal Deposit Committee, and also felt in insufficient funding for resources such as dedicated legal deposit staff.

### **6.4.2 Feasibility study**

The results of the feasibility study clearly show that the legal deposit compliance figures of medium and large publishers are relatively good, although not as high as comparative figures provided by other countries (see chapter 3, section 3.3.4). The exceptionally low compliance figures of the smaller publishers are a cause for concern and merit serious attention.

The reason for the low percentage of delivery by the large publishers for the English newspaper (46%) in comparison with the other two lists (Afrikaans newspaper 85%, and SACat 88%) is not clear. It does illustrate, however, the need and opportunity for investigation if this type of phenomenon is noticed in a “real life” legal deposit exercise.

The differences in compliance levels between the smaller commercial publishers and the small and/or private publishers with 620 ISBNs can be attributed to various possible reasons. Publishers obtaining 620 numbers may be less aware or knowledgeable of their legal deposit obligations. Some aspiring publishers might obtain ISBNs with the aim of publishing a book, but the endeavour may not come to fruition. It is also possible that a number of these individuals only publish two, three or even more years after obtaining an ISBN. The need for continuous follow-up in this regard is thus obvious.

### **6.4.3 Remarks on other efforts to obtain compliance information**

Although the unsuccessful attempts at obtaining compliance figures described in the previous chapter (see chapter 5 section 5.4.5) have not been discussed in this present chapter, as there were no outcomes

formally documented, some observations could be of value especially in the light of recommendations for future use of similar methods.

When the publishers and printers were contacted asking for lists of publications (chapter 5, section 5.4.5.2), it was explained to them that this was for the purpose of an investigation into legal deposit. Perhaps the fear of being “caught” for not delivering may have deterred them from sending their lists. In comparison, the researchers who conducted a project without the (initial) legal deposit slant (chapter 5, section 5.4.5.4) were readily supplied with publications lists, even from one publisher who, as it turned out, had not delivered a single publication as legal deposit! This experience demonstrates the importance of good, trusting relationships for future cooperation with publishers regarding legal deposit.

However, in the case of the Garden Route venture (chapter 5, section 5.4.5.3), in contrast to the above, legal deposit was never mentioned. The dearth of responses can perhaps be attributed to a total lack of interest, or to weak management or ineffective staff.

## **6.5 Summary**

This chapter provided a comprehensive overview of the results obtained from the two phases of empirical research conducted for this study. The chapter concludes by highlighting specific observations about the results obtained. A few brief observations on the unsuccessful endeavours discussed in chapter 5, section 5.4.5, were also included.

The first phase of the research involved semi-structured qualitative interviews with publishers and the legal deposit libraries. The results of

these interviews were presented according to the categories and themes identified either by the topics set for discussion or those from the open-ended questions. Where it was possible, the views of the publishers and the libraries were provided together to facilitate comparison, but where necessary, their responses were presented under separate headings.

In the second phase of the research project, lists of book titles obtained from various sources were checked against the PTD database to see whether they had been received as legal deposit. The results of this feasibility study were provided in the form of tables and figures indicating the levels of compliance with legal deposit for small, medium and large publishers.

The outcomes from all of these are used to identify gaps and areas of weakness in the current legal deposit system, and to make recommendations for improved and more effective services, all of which are dealt with in the next chapter.

## 7 Assessment and recommendations

### 7.1 Introduction

The final stage of this investigation into legal deposit involves offering guidelines and suggestions for improving the current system of legal deposit in South Africa. The aim is to contribute to a sustainable system of effective legal deposit in the foreseeable future. For the discussions in this chapter, the following were considered:

- Information obtained from the comprehensive literature study covering the broad range of issues reported on in chapters two, three, and four; and
- Results of the empirical research project:
  - The semi-structured interviews that yielded data as to how publishers and legal deposit libraries experience many different aspects of legal deposit in their specific contexts;
  - The feasibility study which provided figures for compliance with legal deposit by small, medium and large publishers, and so indicated areas that need specific attention in future legal deposit implementing and monitoring actions and programmes; and
  - To a lesser degree, the insight gained from the discontinued attempts to obtain compliance figures which also contributed to recommendations for the future.

## ***7.2 Legal deposit implementation***

### **7.2.1 Introduction**

This discussion will as far as possible follow the various activities and elements of legal deposit legislation and its implementation discussed in chapters 2 and 3, and the themes and categories that emerged from the data analysis set out in the previous chapter. Other relevant information is woven into these broad outlines. Areas that are regarded as crucial for the successful future implementation and management of legal deposit are highlighted, and recommendations as well as practical suggestions for future action are provided.

### **7.2.2 Issues covered by legislation**

The South African Legal Deposit Act (South Africa, 1997) was enacted in 1997. As mentioned in chapter 2, section 2.1, an objective, comparative study of selected national deposit laws to determine levels of compliance with international recommendations for legal deposit legislation judged South Africa as one of the top achievers, with a compliance rating of 83% (see chapter 2, section 2.1). This was confirmed by the results of the interviews which showed that publishers and libraries do not consider many issues pertaining to legislation as seriously problematic. The following are the ambiguous and/or uncertain areas mentioned during the interviews.

#### ***7.2.2.1 Number of copies to be delivered and costs of delivering***

The interviews conducted with the publishers and the libraries, show that the majority (+/ 75%) of the publishers interviewed are unhappy with the

number of libraries that each have to receive a copy of a publication. This sentiment is echoed in the literature, where the number of copies of publications to be delivered to libraries is seen to cause dissatisfaction (see chapter 3, section 3.2.4.2).

The costs associated with providing multiple copies of publications are not regarded by the larger publishers as problematic, but both the larger publishers and the libraries did mention that costs could possibly pose a problem for small publishers. Although less than 50% of the smaller publishers interviewed mentioned costs as being problematic, in the literature studied the cost of providing a number of free copies of publications for legal deposit is regarded as a problem for smaller and private publishers (see chapter 3, section 3.2.4.3).

In 1994 an attempt was made to address the issue of delivering multiple copies of publications for legal deposit. A draft policy by the ANC's Centre for Education Policy Development (CEPD) proposed that the five legal deposit collection sites be reduced to two (retaining Cape Town and Pretoria), arguing that it is unfair to have publishers produce five free copies of their publications (Louw, 1994: 6). The proposal was, however, not implemented and the five legal deposit libraries were maintained in the new Legal Deposit Act of 1997.

The authoritative opinion regarding the number of depositories and free delivery of material is that, since legal deposit is in the interests of the people of South Africa, the burden of delivering free copies to five libraries is justified. However, the results of this investigation into legal deposit requested by the Legal Deposit Committee itself, particularly the opinions of the publishers obtained from the interviews, suggest that the Committee should pay serious attention to the question of reducing the

number of legal deposit libraries, and possibly suggest an amendment to the current legislation.

### *7.2.2.2 Time of delivery*

The Legal Deposit Act's decree that publishers must dispatch their publications within 14 days of publication was identified as a definite problem for publishers. Compared to the legislation of the three countries examined in chapter 2 (section 2.4.7), all of which expect delivery of material within a month of publication, the South African 14-day period seems uncommonly short. The interviews furthermore indicated that not one of the libraries was at all concerned with the timing of deposits.

If neither the publishers nor the libraries heed this legislative directive, the feasibility of such a brief time period for delivering legal deposit material can thus be queried. It is therefore recommended that the Legal Deposit Committee take note of this issue, and if the legislation cannot be changed, at least look into the possibility of adapting the Regulations which can be amended more easily.

### *7.2.2.3 Types of publications for delivery as legal deposit*

Understanding the terms used in an Act is important in interpreting such legislation. This is especially critical with regard to the categories of materials subject to legal deposit. The interviews with the publishers and libraries highlighted two problems with the interpretation and wording of the Legal Deposit Act. The first problem, voiced by the libraries, is the question of what constitutes a "publication", with specific reference to legal deposit of ephemeral and other similar types of material that are (incorrectly) provided with ISBNs (see chapter 6 section 6.2.3.4). The second problem concerns both publishers and the libraries and involves luxury editions of publications and interpretation of the term "serious



financial hardship” as contained in the Act. Both these issues are, however, clearly dealt with in the Act.

The Legal Deposit Act of South Africa regards published to mean *inter alia* “produced to be generally available in multiple copies or locations to any member of the public, whether through purchase, hire, loan, subscription, licence or free distribution” (see Appendix A, section 1). In keeping with the internationally accepted guidelines provided for legal deposit legislation, the Act thus covers all types of published material including ephemeral publications, and definitions and terms are very clearly explained in the Regulations accompanying the Act (see Appendix B).

Section 5.1 of the Act (see Appendix A) furthermore makes provision for legal deposit libraries to grant exemption for types of document not required by them, or for publishers to be exempted from supplying documents or granted financial relief under certain circumstances such as “serious financial hardship”. These aspects are further expanded upon in the Regulations, which explain what constitutes a luxury edition of a book, and how many copies and to which library such an edition of a book should be supplied (see Appendix B, Part 1 and Part 111).

Thus some recommendations can be made to address the problems encountered with uncertain interpretations of the Legal Deposit Act:

- Persons responsible for working with legal deposit in the libraries should be motivated to become sufficiently informed about all the information contained in the Act itself as well as the Regulations pertaining to the Act. A legal deposit system that functions satisfactorily can only be attained if personnel are knowledgeable, dedicated and motivated.

- Individual legal deposit libraries should, as is provided for in section 5 of the Act, develop specific selection policies regarding the types of publication they want or do not want to accept as legal deposit, in consultation with and on recommendation of the Legal Deposit Committee. Clear policies covering all areas of uncertainty would serve to dispel any ambiguities<sup>12</sup>.
- All relevant legislative issues and policy decisions must be communicated to publishers.<sup>13</sup>

### **7.2.3 Monitoring of compliance with legal deposit**

Issues surrounding the monitoring and enforcement of legal deposit are critical for the successful implementation of legal deposit in a country. In South Africa five legal deposit libraries are responsible for the practical implementation of legal deposit legislation, with a Legal Deposit Committee (see chapter 4, section 4.5.4.1(i)) directed by law to oversee the monitoring of compliance with and enforcing adherence to legal deposit legislation in South Africa. The results of the interviews with both publishers and the libraries showed that considerably too little time and attention are being paid by the libraries to these matters. The unease of the Legal Deposit Committee that prompted this study is therefore justified. The main gaps that were revealed by the interviews are:

- a lack of mechanisms for identifying material subject to legal deposit and for tracing non-compliant publishers
- inadequate structures for supporting the practical implementation of legal deposit by the legal deposit libraries, and

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<sup>12</sup> Policies and procedures are covered in section 7.2.4.1 of this chapter.

<sup>13</sup> Issues of communication are dealt with under section 7.2.4.2 of this chapter.

- a lack of procedures for ascertaining the level of compliance with legal deposit.

### *7.2.3.1 Mechanisms for identifying legal deposit material and tracing non-complying publishers*

Identifying publications subject to legal deposit and tracing non-compliant publishers are two of the most important processes in the effective and efficient implementation of legal deposit in a country. It is essential that policies and procedures for accomplishing this be put in place in all the places of legal deposit. These policies and procedures would have to include specification of:

- the mechanisms for identifying and tracing to apply
- how often the checks should be done e.g. daily, weekly, monthly
- whether the National Library in Pretoria should be solely responsible for regular checking
- or if not, how the duties should be divided between the five legal deposit libraries
- how the relevant information should be communicated to and between the libraries, and
- clearly spelled-out follow-up procedures.

Based on the suggestions offered by publishers and libraries during the interviews, the insight gained from the feasibility study conducted, and information found in the literature, the following can be regarded as basic

means for introducing and sustaining a system of identifying legal deposit publications, and for checking publishers' compliance with legal deposit legislation.

i. *Use of ISBN lists*

The National Library in Pretoria is responsible for providing blocks of ISBNs to publishers. When a series of numbers has been used up, publishers are expected to return their duplicate lists of numbers allocated for individual titles to the National Library for control purposes. The library also keeps records of all the individual numbers with a 620 prefix that are allocated directly to first-time or once-off publishers. The interviews clearly show that neither the duplicate publishers' lists nor the individual 620 lists of ISBNs held by the National Library in Pretoria are used to check the deposit of legal deposit material. This was confirmed in informal conversation with the head of the ISBN section at the library which revealed that she had never personally thought of using ISBNs for control purposes, and that the possibility had never been discussed in any conversations of which she was part (De Klerk, 2006).

Both the publishers and the libraries proposed using ISBNs for identifying and tracing books not sent as legal deposit and for pinpointing errant publishers. The feasibility study showed this to be a viable suggestion for the libraries and using ISBNs for legal deposit purposes is acknowledged in the literature as being extremely useful. For publishers, ISBNs are used worldwide in the industry as unique identifiers of individual editions of monographs, and many directories require an ISBN for listing (see chapter 3, section 3.2.2.1). The use of ISBNs as an identification and control measure would therefore be practical since South Africa has a long and successful history of ISBN use (Lor & Geustyn, 2001), and the percentage of books published in South Africa without ISBNs is in all probability very small.

ii. *CIP (Cataloguing-in-Publication) data*

Interestingly both the publishers and the libraries suggested using some form of pre-publication information such as CIP for identifying and tracing publications subject to legal deposit. Many national libraries provide free CIP services or contract agencies to provide such services on their behalf as in the United Kingdom (see chapter 3, section 3.2.2.2). CIP data provides a bibliographic record for a book before it is published. It has the advantage of *inter alia* promoting legal deposit to new publishers who use the service, serving as a type of alerting service to identify (new) items of interest, which helps libraries and booksellers select books for purchase, and also providing depository institutions with a means of tracking new publications. South Africa does not have a national CIP programme. Taking into consideration the many advantages such as programme offers and the widespread international use of CIP, it is suggested that the National Library look into the feasibility of establishing a national CIP programme in South Africa

iii. *Use of a national union catalogue/database*

Although neither the publishers nor the libraries mentioned the use of a national database/union catalogue for legal deposit identification and tracing purposes, such catalogues are valuable bibliographic resources used internationally for this purpose (see chapter 3 section, 3.3.2) and should not be overlooked.

The feasibility study shows that meaningful statistics can be obtained through the use of SACat, a product of Sabinet Online. It is therefore recommended that, apart from the sample chosen for this study, the various other products and databases available through Sabinet Online (see chapter 4, section 4.5.4.2(iv)) be included as possible sources for future checking of publications sent as legal deposit.

iv. *Other resources in the general book trade*

The National Library, together with the other legal deposit libraries, will need to identify a wide spectrum of other possible sources against which to compare and verify the delivery of publications and to identify non-compliant publishers. The interviews indicated that some verification and monitoring is being done on an *ad hoc* basis, when time and staff permit. These practices, however, must be evaluated for practical implementation, procedures established, and staff assigned to do the necessary work.

The following are a few suggestions for activities that use resources in the general book trade. This is by no means a comprehensive list, but can be used as a springboard for further action. The libraries may already be performing some of these tasks informally, such as monitoring magazines and newspapers, but it is recommended that they cooperatively endeavour to put in place formal procedures,<sup>14</sup> and expand the field by developing new areas of implementation.

- The active utilisation of trade literature such as booklists should be looked into. Libraries can for example initiate co-operative ventures with bookshops whereby they receive updated lists of all new acquisitions on a regular basis. Larger national stores could be the responsibility of the National Library and the libraries in a specific city could cover the local stock in smaller stores in the various regions and provinces.
- In the same vein, libraries could consult with SABA (see chapter 4, section 4.5.4.2 (iii)) to investigate the possibility of obtaining suitable catalogues or similar products from them.

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<sup>14</sup> Further discussion on cooperation can be found under section 7.2.3.2(iii) of this chapter.

- The feasibility study shows that using information contained in book reviews that appear weekly in many newspapers is a workable proposition. The responsibility for fulfilling this weekly task could easily be divided amongst the libraries on a regional basis.
- Using various sources for the book trade is another option for monitoring legal deposit. Examples of the use of these resources are found in the United Kingdom (UK), where Whitaker & Sons' BookBank, and BookData's Bookfind are used to check for UK imprints, and in the Netherlands, where checks were done against *Boekblad*, a journal for the book trade, and *Brinkman's Cumulatieve Catalogus*, which gives a comprehensive overview of Dutch publishing.<sup>15</sup> In South Africa we have a similar type of resource in BookData/SAPnet, which offers an extensive database of the latest and most up-to-date records of books published and distributed in South Africa (see chapter 4, section 4.5.4.2(iii)). New records are added on a weekly basis and titles can be searched using the special search facility SA BookSearch.
- Publishers' catalogues are logical sources for use in the libraries' monitoring activities. The project conducted by Snyman and Venter (see chapter 5, section 5.4.5.3) demonstrates that personal contact with publishers is a pivotal factor in obtaining lists of publications. It is suggested that this valuable source of information be targeted as a means of keeping up-to-date with all categories of newly published material, and that strategies for 'coercing' publishers into providing their catalogues to the respective legal deposit libraries on a regular basis, be looked into.

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<sup>15</sup> Reference is made to both these studies in chapter 3, section 3.3.2.

- Publishers listed in the PASA Directory (see chapter 4, section 4.5.4.2(i)) can be compared with the publishers listed in the Publishers' Directory compiled by the National Library (see chapter 6, section 6.2.5.1).

### 7.2.3.2 *Supporting structures/mechanisms*

Even if all of the above measures for tracing publishers and their publications are in place, a reliable infrastructure and mechanisms for supporting the practical implementation and monitoring of legal deposit will be necessary. Some of the most significant measures identified in the interviews and from the literature are the following:

i. *SANB (South African National Bibliography)*

The main purpose of a national bibliography is to reflect the current state of the publishing output of a country (see chapter 4, section 4.2.2.3). The National Library in Pretoria is responsible for compiling the SANB and any verification of receipt of legal deposit material thus has to be done against the records contained in the SANB.

The function of the SANB as an essential tool for monitoring compliance with legal deposit was confirmed during the interviews. The libraries believe that the national bibliography is potentially indispensable for keeping track of their legal deposit collections. Crosschecking by the individual libraries would serve the dual purpose of highlighting gaps in individual collections, and those in the SANB. The publishers who are aware of the existence of a national bibliography feel that it could be valuable for verifying their own material for legal deposit.

A major shortcoming with regard to legal deposit-related activities that was pointed out during the interviews, however, is the fact that the SANB



is not up-to-date. The head of the SANB section at the National Library in Pretoria confirmed that the backlog is currently approximately 3 to 4 years (Battison, 2006). Even if formal procedures are put in place for identifying publications and monitoring compliance with legal deposit, as suggested above in section 7.2.3.1, this would be of no practical use without an up-to-date national bibliography.

Although attempts are in process to eradicate the backlog (gleaned from personal discussions with Battison (2006) and Ramohlola (2006)) the seriousness of the issue for attempts to sustain an effective system of legal deposit in South Africa cannot be overemphasised. It is therefore strongly recommended that not only the current retrospective cataloguing project be given priority treatment, but also that attention be directed at making sure that the processing of new legal deposit material received by the National Library in Pretoria is kept up-to-date.

ii. *Integrated list of publications*

Another shortcoming highlighted during the interviews is the absence of an integrated list of all the material received as legal deposit by the five libraries. This was a major grievance at the time when the interviews were conducted in 2003, but the development and recent establishment of the Millennium Database solves this problem. The suggestion offered during the interviews, namely that regular lists of the publications received by the various libraries as legal deposit be circulated, is also satisfied by the database. It must be emphasized, however, that the advantages of this product for monitoring compliance with legal deposit can only be exploited to the full if the SANB is kept current and if regular checking procedures are in place at all the places of legal deposit.

iii. *Cooperative efforts*

Lack of cooperation is a problem mentioned by both the publishers and the libraries in the interviews. This is regrettable as the shared knowledge and endeavours of the places of legal deposit, and the understanding and involvement of all the role players, can contribute to improving the legal deposit system. A number of areas can be explored to improve cooperation:

- Sharing cataloguing responsibilities between the five legal deposit libraries is one way of cooperating. Combining the physical work involved in processing the publications received as legal deposit eases the financial burden of individual libraries as well as the work load of cataloguing staff.
- Another possibility that should be looked into is shared collection policies. The burden placed on libraries by the increasing volume of published (print) material has been discussed (see chapter 3 section 3.2.3). This problem is exacerbated in the electronic environment with its increasingly large volumes of material, and for future effectiveness in preserving our legal deposit material, legal depositories in South Africa need to look at similar endeavours in other countries and aim to be vigilant and pro-active in this regard.
- Cooperation with other role players in the book trade is essential, especially between the relevant organisations and the National Library as was pointed out in the interviews:
  - A close and active relationship with PASA is a good starting point. New publishers joining PASA could be informed of their legal deposit responsibilities and PASA could actively promote the delivery of publications.

- The legal deposit libraries should also be aware of cooperative efforts in the book trade from which they might benefit or in which they could become involved in (see chapter 4, section 4.5.4.2 for an example of such an endeavour).
- Cooperation with printers is also vital. They are often the first people to handle a book even before publishing and could be a vital source of information about legal deposit especially for smaller or private publishers.

### 7.2.3.3 *Measurement of compliance*

Assessing the extent of compliance with legal deposit has many practical advantages, and it seems logical that a country such as South Africa which has had a working legal deposit system for more than a century, and currently has world-class legal deposit legislation in place, should have compliance measurement procedures and statistics available. This is, unfortunately, not the case. The feasibility study, which checked ISBN lists, book reviews in newspapers, and books on a national database against records of publications received as legal deposit, was an attempt to fill this gap. The studies were valuable in showing that measuring compliance with legal deposit is practically possible in South Africa.

The feasibility study also provided examples of potentially workable methods and techniques of measurement for implementation by the legal deposit institutions. These methods can be applied or adapted and/or other methods added, to obtain relevant information and statistics for developing strategies for tracing and enforcing compliance. It is therefore recommended that the legal deposit libraries commence with developing

their own programme of regular checking for compliance as soon as possible, taking the following into consideration:

- As the institution responsible for compiling the SANB, the National Library in Pretoria is the obvious choice for taking the major responsibility for controlling and administering such a programme, but this would not exclude the possibility of sharing some of the checking amongst the other four libraries.
- Individual libraries can also start a programme of doing their own regular spot checks and communicating the information to Pretoria.
- The information in the literature (see chapter 3, section 3.3.2) suggests that, to provide for late deliveries and the possibility of private publishers taking longer to actually publish (after receiving ISBNs for example), to concentrate on records of at least three years ago. The time of year and publishing cycles should also be taken into account. On a practical level, aspects such as the currency and comprehensiveness of the SANB would have to be taken into consideration in this regard.<sup>16</sup>
- From results obtained through such checks/measurements, individual publishers' performances and their depositing patterns can be monitored, gaps in categories of materials identified, and possible reasons for non-compliance determined.

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<sup>16</sup> See section 7.2.3.2(i) of this chapter for discussions of the SANB.

#### *7.2.3.4 Organisational and managerial factors affecting the implementation of legal deposit*

As was discussed in chapter 3, section 3.4.2, no organisation can be successful and productive without able and effective management. This is also true in the legal deposit arena. Managers have a wide spectrum of responsibilities, for example developing policies, allocating resources, developing the skills and abilities of staff, and making decisions that will impact not only on organisational performance but also on the organisational culture. The management-related areas that impact on the implementation and monitoring of legal deposit and that seriously need attention are discussed below:

#### *7.2.3.5 Policies and procedures*

A lack of policies and procedural guidelines is a major shortcoming pointed out by the libraries during the interviews. Two main problem areas are the following:

i. *Lack of selection and disposal policies*

Except for the Library of Parliament, which has clear guidelines concerning the various categories of publication it does not wish to receive as legal deposit, not one of the other libraries is aware of either selection policies/procedures or of any guidelines regarding the disposal of legal deposit material. As discussed above in section 7.2.2.3, section 5 of the Legal Deposit Act provides for individual libraries' developing selection policies for the types of publication they want or do not want to accept as legal deposit, in consultation with and on recommendation of the Legal Deposit Committee. Similarly, section 7.5(a) of the Act makes provision for the disposal of documents.

ii. *Lack of procedures and guidelines around non-compliance*

The conspicuous lack of structured procedures within the legal deposit libraries themselves regarding the tracing and follow-up of non-compliant publishers, together with the complaints of the libraries against the Legal Deposit Committee for its failure to provide procedural guidelines for taking action in specific cases of identified non-complying publishers, is a cause for concern.

The management in any organisation is responsible for making policy decisions to accomplish organisational goals (see chapter 3, section 3.4.2), and effectively communicate these decisions if results are to be achieved (see chapter 3, section 3.4.4). It is therefore suggested that, where written policies do not exist regarding the issues mentioned above, each individual legal deposit library, in conjunction with the Legal Deposit Committee, undertake to see that this is accomplished. Where policies and procedures do exist, albeit as informal arrangements, they should be formalised and communicated to the relevant person(s) responsible for implementing the legal deposit activities and tasks in the specific institution(s).

#### **7.2.3.6 *Communication***

Both the publishers and the libraries emphasized that communication between the role players in the legal deposit process is severely lacking. It is strongly recommended that the libraries as places of legal deposit and the Legal Deposit Committee, as the overseeing body, pay serious attention to finding ways and means by which the current lack of communication can be addressed, especially in the following areas pointed out during the interviews:

i. *Communication with publishers*

Communication in an organisation, either internally or with the external market/client, is a process through which the organisation creates and shapes events and achieves set goals and results (see chapter 3, section 3.4.2). In the case of the legal deposit libraries this is especially true, as the aim of their activities is to get their external market, the publishers, to deposit publications as legislation demands. If publishers are either unaware of their legal deposit obligations or confused about the relevant procedures because these have not been effectively communicated to them, this goal will not be achieved.

ii. *Communication between legal deposit libraries*

Organisational communication is a process of interaction that develops between organisational members and plays a major role in shaping an organisation and working towards a purpose (see chapter 3, section 3.4.4). Though the various legal deposit libraries function as individual entities, they are collectively responsible for ensuring the successful implementation of legal deposit and in this sense could be regarded as one “organisation” with a common goal and purpose. Without meaningful communication between the libraries regarding legal deposit, relevant and important information cannot be transmitted, cooperation cannot take place and the expected results cannot be achieved.

iii. *Communication with the Legal Deposit Committee*

The Legal Deposit Committee has to be especially sensitive to what the libraries perceive as a total lack of communication with them regarding the issues involved in effectively monitoring legal deposit. As the “managing” body responsible for overseeing the implementation of the legal deposit system, the Committee should provide for the giving and receiving of feedback on both management and general employee level. Without satisfactory communication, which includes sufficient support

and motivation, the persons responsible for the actual legal deposit processes will not perform optimally, legislation will not be effectively enforced and the system will thus be unsuccessful.

#### **7.2.3.7 *Promotion and marketing***

The interviews clearly show that the majority of the individuals in the publishing concerns, who are not directly involved with legal deposit, including some managers, are distressingly ignorant of what legal deposit really entails. Both the publishers and the libraries acknowledged that, except in rare cases of self-publishers who receive the relevant information when applying for ISBNs, authors are most probably also not aware of legal deposit. Although the majority of the publishers interviewed do deposit their publications willingly, they are not acquainted with the directives contained in the Legal Deposit Act. They were, for example, unaware of the time period stipulated for depositing publications, and only one of the publishers knew about the possible penalties for non-compliance.

This general lack of awareness is disturbing in the light of the results of the feasibility study. Especially noticeable from the analyses is the high degree of non-compliance by smaller and private publishers. Bringing the concept of legal deposit and the associated legal responsibilities to the attention of all publishers and of the general public in South Africa, is therefore of utmost importance if the libraries and the Legal Deposit Committee are serious about their duties. Both monitoring and tracing mechanisms (7.2.3) and communication (7.2.4.2) can be harnessed as valuable tools for marketing and creating awareness. Various other marketing and promotion initiatives such as articles in journals, advertising in newspapers and radio and television promotion, were



mentioned during the interviews as possible methods, and should be seriously considered.

Something that was not mentioned in the interviews, which caught the attention of the researcher is the lack of legal deposit information provided on the Web site of the National Library of South Africa (NLSA), and the total absence of sites and information for the other places of legal deposit.

i. *Web page: National Library*

A national library has a variety of important functions and activities to fulfil, but the responsibility of collecting and preserving the national published heritage of its country is regarded as one of its core functions (see chapter 3, section 3.2.5.3 and chapter 4, section 4.2.2.2). In South Africa this role is affirmed by the goals and functions of the National Library as described in the National Library of South Africa Act (South Africa, 1998). It therefore stands to reason that legal deposit should be afforded a prominent mention on the National Library's Web site.

To investigate the reasonableness and acceptability of this assumption, a comparative overview of the web sites of the British Library, the National Library of Australia, the National Library of Malaysia, and the NLSA was done. The Web pages were all accessed on the same day, 11 September 2006, and the following was found:

- The British Library

On the home page of the British Library a 'quick link' to legal deposit is provided (see Appendix E). The subsequent legal deposit page offers a wide range of information on the advantages of legal deposit for authors and publishers, categories of publications exempt from delivery, names

and addresses of all the other depositories, special notes for publishers on ISBNs and ISSNs, and so on.

- The National Library of Australia

The home page of the National Library of Australia does not contain an immediate link to legal deposit information, but a drop-down menu provides information for publishers with a link for legal deposit among other things (see Appendix F). Information provided here explains what is covered by legal deposit legislation, the benefits of legal deposit for publishers, and a section on the particular legal deposit requirements of each of the other State deposit libraries in Australia, with additional links to CIP information and so forth.

- The National Library of Malaysia

The Web site of the National Library of Malaysia (Perpustakaan Negara Malaysia, 2006) is problematic. No direct or obvious link is provided and a search for legal deposit on the 'site search' gives no results. On the home page there is a link to 'General services' with a further link to 'Services for Publishers' but this contains information on ISBN, ISSN and CIP only. Nothing relating to legal deposit whatsoever is found. After much searching a link to 'Corporate information' can be found, with a drop-down menu of which the tenth topic is the Deposit of Library Material Act, but no explanation or further specific information on legal deposit is offered.

- The National Library of South Africa (NLSA)

When the NLSA Web site was accessed in September 2006, it proved to be equally as frustrating as the above Malaysian site in terms of searching for legal deposit information. As part of an historical overview legal deposit was mentioned in the section 'Where do we come from?' but no link to further information provided. The menu on the right hand side of the

home page was slightly more fruitful, on which 'Services' appeared, with a drop-down menu for 'Services for publishers'. In the very last paragraphs of the description of these services, publishers were informed about ISBNs and ISSNs. This "service" also provided access to the shared online catalogue of the five legal deposit libraries, but an inexperienced publisher would be unlikely to know the significance of such a link, as no information as to the legal deposit connections of the libraries was supplied.

However, the researcher was aware that the NLSA web site was being updated. The revised version was accessed in February 2007, and provided a much-improved service. A link to "Services" is now found on the "Welcome" page and brings you to a list of choices. One of these is services "for publishers and authors", which opens to a page with a choice of links to various information, including some on legal deposit. Another click opens a fourth page with the needed information on the Act, places of legal deposit, and so on (see Appendix G).

Although these improvements in providing legal deposit information on the NLSA web site are noted with pleasure, it is still disappointing that four or five "clicks" are needed before any relevant legal deposit information is accessed. It is a pity that the "quick links" found on the welcoming page do not link directly to legal deposit information, as in the case of the British Library mentioned above. Legal deposit is also only listed fourth on the list of services for publishers and authors, after the Publishers; Directory, ISN Agency and information on ISBN-13. No direct contact information to the legal deposit coordinator based at the Pretoria Campus of the National Library is provided. It is suggested that these issues be looked into.

ii. *Web pages: other legal deposit libraries*

In addition to the National Library, the other legal deposit libraries should also have appropriate sites with the necessary legal deposit information. Not one of the three other legal deposit libraries in South Africa, namely the library in Manguang (Bloemfontein), the Msunduzi Municipal Library (Pietermaritzburg), and the Library of Parliament, has an independent Web presence. Some information is available at other sites:

- General (but not legal deposit) information on the Manguang Library is obtained only by accessing the Bloemfontein Online site (Bloemfontein Online, 2006).
- Full legal deposit information is supplied on the Natal Society Library site which is maintained by the Natal Law Society Library (See Appendix H) but unless one knows that the Natal Society Library is in fact currently (also) named the Msunduzi Library, one will not be able to find the relevant information.
- The Library of Parliament fulfils many functions and understandably is found as a sub-section under the general web site for the South African Parliament (Parliament of South Africa, 2006), yet no legal deposit information is provided there.

iii. *Legal deposit information provided by other role players*

This lack of information supplied by the places of legal deposit becomes even more obvious compared with the legal deposit information supplied by some of the other role players in the book business.

- SA BookNews, an online news and information service which was launched in June 2006, lists a booklet with the title *ISBN and places*

*of deposit: what do they mean for a writer?* on its Resources page (see Appendix I).

- Although the Publishers' Association (PASA) does not have legal deposit information online, it does provide a comprehensive overview of what legal deposit entails, together with places of legal deposit contact details in the print copies of both the 2005 and 2006 publishers' directories.

#### **7.2.4 Factors affecting the successful implementation of legal deposit**

Not all of the issues discussed in the following section were identified by either the publishers or the libraries as factors that directly affect the implementation and monitoring of legal deposit. However, the importance of the issues, deduced from the literature studied, means they cannot be disregarded.

##### **7.2.4.1 Technological issues**

At the time of the interviews, issues concerning technology were proving to be problematic for the libraries, especially in terms of access to the collections of other libraries, and the question of cooperative cataloguing practices. At the time, all the persons interviewed "knew about" the so-called Millennium project that was intended to address these issues (see also 7.2.3.2 (ii)), but not one had any further knowledge or information as to when the project would be implemented or what it would entail.

Although the web-based integration of catalogues has in the meanwhile been implemented, the fact that the legal deposit personnel in the libraries are not kept informed throughout such development phases is worrying, especially in terms of the future legal deposit of electronic publications. In

a recent article, Lor, Britz and Watermeyer (2006: 45) report that a current study of the issue of legal deposit of South African web pages strongly suggest that the task be allocated to one of the places of legal deposit, most probably the National Library. If this happens the National Library will have to make sure that technology-related decisions are not made only at management level, but that all legal deposit personnel are involved and provided with relevant and timely information.

#### **7.2.4.2 *Copyright***

Neither the publishers nor the libraries directly mentioned problems with copyright and legal deposit. This is, however, a concern, both in the print and electronic environment.<sup>17</sup> In South Africa the Publishers' Association, through the PICC, is actively involved in the copyright issue trying to address identified gaps by means of amendments to current legislation (see also chapter 4, section 4.5.4.2(ii)). It is recommended that the persons working with legal deposit in the libraries become more informed about these initiatives and, with the future in mind, about the potential copyright problems surrounding the legal deposit of electronic material.

#### **7.2.4.3 *Attitude towards legal deposit***

Ambivalence on the part of both the publishers and the libraries regarding the importance and value of legal deposit was clearly evident from the interviews. Although nearly all of the publishers interviewed regularly deposit their publications, only 30% of them feel positive about the principle of preservation. Very few could furthermore see any benefits of a system of legal deposit for them as publishers. The libraries professed to regard the effective implementation of legal deposit as very necessary and valuable for a country, but neither they nor the publishers think it

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<sup>17</sup> Refer to the discussions on copyright and legal deposit in chapter 3, section 3.2.6.2 and chapter 4, section 4.4.4.

important enough to inform authors about the preservation of their work. Legal deposit is also never discussed in the libraries outside of the immediate work environment.

Improved communication and widespread advocacy of legal deposit, as discussed above, could in all probability lead to improved attitudes and increased consciousness of legal deposit and its advantages among publishers and the public in general. The demoralised and somewhat despairing attitude of many of the staff responsible for legal deposit in the libraries, clearly illustrated in their concluding remarks during the interviews, should, however, be of grave concern.

A well-known South African author commented in 1989 on the “commitment and diligence of (South African Library) staff members...” in their pursuit of tracing even relatively unimportant publications subject to legal deposit (Schoeman, 1989: 72). The interviews suggest that this commitment is not in evidence any longer. The establishment of a Legal Deposit Committee to co-ordinate and promote the implementation of legal deposit is a positive step towards achieving a successful legal deposit system. The fact that the Committee commissioned the current investigation into the monitoring of the system testifies to the fact that it takes its responsibility seriously. The question as to whether the Committee has successfully motivated and communicated its vision to the persons who are responsible for the activities surrounding the practical day-to-day implementation of legal deposit processes is, however, not so clear. In addition, the failure of the directors of the legal deposit libraries, as Legal Deposit Committee members and as managers, to inspire their employees towards accomplishing the legal deposit goals of their institutions in an enthusiastic and dedicated manner is regrettable.

#### **7.2.4.4 *Economic and political factors***

Political and related social and economic developments are factors that can significantly influence the successful functioning of a system of legal deposit (see chapter 3, sections 3.4.3 and 3.4.7). Lack of staff and finances are two issues mentioned by all the libraries as holding back many initiatives for effectively implementing legal deposit. In any organisation, financial decisions impact on the activities and tasks undertaken. In the same manner, the scale and nature of activities and services in libraries are determined by the allocation of resources, which include both enough staff and sufficient money with which to work.

The Legal Deposit Committee is a parliamentary committee established to oversee legal deposit in the country, and consequently has the responsibility of using its position to affect government decisions pertaining to legal deposit. The issues raised by the libraries during the interviews, and the problems highlighted during personal discussions with national library staff, suggest that insufficient support and funding from the state has impacted negatively not only on the procedures for the execution of tasks as discussed under section 7.2.3, but also on the general attitude towards the legal deposit process as highlighted above in section 7.2.5.3.

Section 8 of the Legal Deposit Act (see Appendix A) provides the Legal Deposit Committee with the authority to communicate with the relevant individuals and sections of parliament regarding legal deposit. The Committee therefore has the responsibility of influencing debates and decisions in Parliament with the aim of getting recognition and support from the government. The government plays a major role in encouraging, promoting and supporting national endeavours such as legal deposit, and although it is not within the scope of this study to volunteer any specific



suggestions in this regard, the importance of the matter should not be underestimated.

### 7.3 *Summary*

The results of the empirical research and information obtained from the literature were used in this chapter to assess problem areas in the practical implementation of legal deposit, and to provide recommendations for the improvement of procedures and methods of administering the legal deposit process. Areas critical to the successful implementation of a legal deposit system were highlighted. These include areas of uncertainty regarding legislation, and the many crucial monitoring and enforcement issues that form the bulk of the discussions. The chapter concluded by looking at communication, management, marketing and promotion, policies and so forth, all of which are important for successfully implementing legal deposit.

This exploratory investigation into the practical problems surrounding the legal deposit of books, and the recommendations subsequently provided can form the basis on which an effective and sustainable system of legal deposit for all types of material, including electronic publications, can be built in South Africa.

## 8 Looking towards the future

### 8.1 *Issues for further consideration*

#### 8.1.1 Introduction

This investigation into legal deposit was not merely an academic exercise, but contains a wide range of practical suggestions and recommendations for the successful execution of legal deposit. In addition to those proposed, however, a number of other factors need to be considered if the future of legal deposit in South Africa is to be secured.

- Firstly, the activities currently being implemented and those planned for the future by the Legal Deposit Committee as detailed in their action plan (NLSA, Legal Deposit Coordination, 2005) will have a decisive impact on the future of legal deposit, and
- Secondly, this study concerned the legal deposit of books only, but the deposit of all other types of material has to be looked into. The legal deposit of government publications and electronic publications will be discussed here:<sup>18</sup>
  - The legal deposit of government publications is a critical area that needs to be given specific attention if South Africa is really serious about preserving its published heritage.

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<sup>18</sup> Although other types of publication are not discussed, the importance of such publications, and specifically audio-visual material, should not be disregarded.

- In the digital environment the issues surrounding legal deposit are becoming increasingly complex and it would be extremely short sighted if the important subject of legal deposit of electronic publications were not also addressed.

### **8.1.2 Legal Deposit Technical Sub-committee Action Plan**

After completing the first phase of investigation for this research project, a feedback report was submitted to the Legal Deposit Committee in January 2005. On 1 August 2005 a national coordinator for legal deposit, based at the National Library's Pretoria Campus, was appointed. In response to the researcher's feedback report, an action plan for legal deposit was presented at the September 2005 meeting of the Legal Deposit Technical Sub-committee. In the action plan, the main tasks to be accomplished are identified, and specific targets with their respective time frames are set. An in-depth exposition of the action plan is not intended here, but some significant aspects need to be pointed out.

Many of the issues raised in the feedback report were addressed in the plan. These included issuing standardised letters acknowledging receipt of publications, suggestions for legal deposit communication activities in and between libraries *via* the intranet, cooperative cataloguing activities, the attendance of Technical Sub-committee meetings by officials and legal deposit specialists from the libraries, and the recommendation that a dedicated staff member from each library sit on the Legal Deposit Committee itself to report back to staff in the libraries. Feedback on how and which of the goals have been achieved, was to be provided at the next

meeting of the Technical Sub-committee in February 2007<sup>19</sup> (Ramohlola, 2006).

Apart from the contributions mentioned above, many of the activities and goals mentioned in the action plan are couched in vague and general terms with time frames mostly consisting of expressions such as “ongoing” or merely “2006”. This lack of specific, practical suggestions for achieving set goals in reality thus means that libraries have to come up with their own plans to implement the tasks. This is a major shortcoming, since both management and staff of the libraries have up to now shown themselves to be unable or unwilling to achieve of meaningful actions for bettering legal deposit in their institutions.

More critical is the area of web-based information. A specific time frame of February 2006 was set for having legal deposit on the web sites of all the legal deposit libraries. As was discussed in section 7.2.4.3 of the previous chapter, this has not materialised. The Subdirectorate of Meta-information of the Department of Arts and Culture, which is directly involved in legal deposit, was furthermore commissioned to create websites with information on legal deposit (no further specifications provided). A search on the Internet by the researcher produced no “hits” for any such sites. Considering the indisputable impact of the Internet in the world today and the crucial role of legal deposit in the electronic environment, as is discussed in section 8.1.4, this is a matter that needs urgent attention.

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<sup>19</sup> Feedback on the results of the feasibility study was given to the Committee by the researcher in February 2007 prior to the meeting, but cut-off dates for completion of this doctoral study precluded obtaining and documenting any comments and/or actions taken by the Committee.

### 8.1.3 Legal deposit of government publications

The Legal Deposit Act of 1997 covers the deposit of all material, which is material published by commercial publishers and individuals, but also by the government (South Africa, 1997). Government publications are a continuous source of current information (Carpenter, 2003: 54). Providing access to this information stands at the heart of democratic governance (Lor, 2003a: 6), and is a principle that is endorsed by the Constitution and recognised by the government (Ntunja, 2001: 7; Lor & Van As, 2002: 102). To accomplish the preservation of government publications, the Legal Deposit Act provides for the establishment of OPDs in each of the nine provinces. These OPDs are not meant to be “merely scaled down legal deposit libraries” (Lor & Van As, 2002: 115), but rather to be proactive in promoting public awareness of and access to these publications.

For the substantial task of establishing the OPDs, the National Council for Library and Information Services (see also chapter 4 section 4.5.4.1(ii)) was recommended as the focal point for coordinating policy in this field (Lor & Van As, 2002: 118). Whether this has actually happened, the researcher has been unable to establish. It seems as if the National Library is currently taking the responsibility for overseeing the practical establishment of OPDs in various centres. The process has, however, been very slow and the only really successful centre that is up and running is the OPD in the Free State Province (Ramohlola, 2006).

Works that can be called government publications are “legion” (Carpenter, 2003: 50). Government publications in many countries such the United States are furthermore increasingly being published on the Web (Hawkins, 2004: 36; Kumar, 2006: 226). It is predicted that in South Africa the OPDs, once they are established, will also be less concerned with print material and more with providing access to digital information

(Lor & Van As, 2002: 115). It is therefore of the utmost importance that the libraries and other institutions that will function as OPDs have sufficient structures in place, and that they make sure that skilled, client-orientated librarians (Lor, 2003a: 23) are appointed to ensure that the dissemination and systemisation of official government publications is done in a manner that ensures effective promotion of and access to these essential national documents.

#### **8.1.4 Legal deposit of electronic material**

The rapid expansion of publishing in the digital arena has necessitated rethinking of the basic concepts underlying legal deposit (Lor, 1995: 109; Rugaas, 1990: 42). This discussion of the implementation and administration of legal deposit will therefore not be complete without touching upon the issues surrounding the legal deposit of electronic publications.

International guidelines on legal deposit legislation stress the need for providing for the deposit of electronic publications in such legislation (Lariviere, 2000). The importance of this issue can be seen in the number of surveys that have been done to determine the extent of coverage of electronic (digital) publications in legal deposit legislation world-wide.

- One of the earliest projects was a survey undertaken by the National Library of Canada by means of a questionnaire sent to all national libraries in February 1989. The questionnaires collected information on the acquisition and bibliographic control of electronic publications (McCormick & Williamson, 1990: 52).
- In 1998, a questionnaire was sent to the membership of the Conference of National Libraries (CDNL) to seek information regarding the

inclusion of information for electronic sources in national bibliographies. At that stage, the legal deposit of electronic publications was still in a state of flux in many countries as legislation was still being updated (Byrum, 1999).

- Muir and Davies undertook a survey to determine the scope of electronic legal deposit arrangements in 2000 (Muir & Davies, 2000).
- This was followed by a comprehensive overview by Martin (2001) on the status of the management of networked electronic publications. The report included information on legislation, deposit arrangements, publisher negotiations, access to publications and implementation plans and dates.
- A recent survey by Bazan (2004) which investigates 20 countries, gives a good indication of the characteristics of different national legal deposit legislations, including information concerning legislative issues on the legal deposit of electronic publications.

From these surveys and from the literature, it is evident that many countries already have or are in the process of developing legislation that includes electronic publications.

Apart from the important issue of specific legislation, many individual and cooperative national strategies to collect, archive, and preserve digital content for current and future generations have also been developed over time, of which the following are good examples.

- The United Kingdom (UK) and Australia were very much on the forefront of the preservation debate in 2002 (Warner, 2002: 64). One of the first projects in the UK was the CEDARS (Curl Exemplars in Digital ArchiveS) project funded by the Joint Information Service Committee of the Higher Education Funding Councils (JISC) and the British Library (Muir & Davies, 2000: 163). The objective of the

project was to explore digital preservation issues including the acquisition of digital objects, their long-term retention, sufficient description and eventual access (Cedars, 1999).

- Australia has been seriously examining digital preservation issues since 1994 (Woodyard, 2000). PADI (Preserving Access to Digital Information), a National Library of Australia initiative, gave concise information about legal deposit of digital publications in various countries (Warner, 2002; Woodyard, 2000). The PANDORA Project of the National Library of Australia was initiated to develop policies and procedures regarding electronic publications and is now building a full-scale electronic collection of publications selected for national preservation (Martin, 2001; Muir, 2001: 676; PANDORA Archive, 2004; Woodyard, 2000).
- In the United States of America the National Digital Information Infrastructure and Preservation Programme (NDIIPP) of the Library of Congress has been developing a national programme to preserve the increasing amount of digital information since 2000 (Andrews & Law, 2004: 222; Beagrie, 2003).
- The Nordic countries have been engaged in pioneering work concerned with harvesting the World Wide Web. The Royal Library in Sweden (*Kungl. Biblioteket*) inaugurated the Kulturarw3 project in 1996 with the aim of testing “methods of collecting, preserving and providing access to Swedish electronic documents which are accessible online in such a way that they can be regarded as published” (Arvidson, Persson & Mannerheim, 2000). This is done by periodically running a robot to capture sites that relate to the cultural heritage of Sweden (Marcum, 2000; Martin, 2001). Finland does similar work through its EVA project (Martin, 2001).



A combined effort between the Royal Library in Copenhagen and the State Library in Denmark in 2001 resulted in the Net Archive project, aimed at archiving of Danish web pages. With the implementation of the new July 2005 Act on the legal deposit of electronic materials, Denmark is now able to harvest all relevant Internet information (Dalgaard, 2005).

- The *Koninklijke Bibliotheek*, the national library of the Netherlands, has been experimenting in preserving electronic publications since 1994 (Steenbakkens, 1999: 93, 103), and is now working towards a full-scale system (Muir, 2001: 676). The national library was also the leader of the NEDLIB project launched in 1998. This project (see also chapter 3, section 3.2.1) addressed the major technical and other implementation issues confronting national deposit libraries and provided a forum for the exchange of best practices in developing digital deposit systems (Beagrie, 2003; Marcum, 2000; NEDLIB, n.d.; Van der Werf-Davelaar, 1999)

South Africa clearly lags far behind with strategies for preserving digital material. Soon after the new South African Legal Deposit Act of 1997 (which included the deposit of all electronic publications) was promulgated, it became obvious that the NLSA would not be able to implement all the conditions of the Act referring to electronic publications immediately. It did not have the technological capacity, was plagued with a lack of human resources to do research and development work and to operate the systems once they had been installed, and finances were inadequate (Letshela & Lor, 2002). It was therefore decided to phase in the implementation starting with certain audiovisual materials and static electronic publications. Preserving other material that is published on the Web is, however, also an area of critical concern if collections that fully reflect the country's cultural heritage are to be maintained. It is thus

gratifying to report that a project managed by the Foundation for Library and Information Service Development (FLISD) on behalf of the National Library, is currently underway to plan for the legal deposit of electronic publications, including web sites (Lor, Britz & Watermeyer, 2006).

## *8.2 Challenges for the future of legal deposit in South Africa*

Legal deposit of print publications is already a success story in the rest of the world (Ceoney, 2003: 272), but the results of this research project clearly indicate that this is not the case in South Africa. This needs to be rectified, because although there are admittedly many particular problems associated with the legal deposit of electronic publications, it is generally agreed that the basic principles of a good legal deposit system for the print environment can be successfully applied in the electronic environment (CDNL, 1996; Field, 2002: 25; Lor, 1995: 109). The challenge for legal deposit in South Africa is therefore not only to keep up with the electronic age but, as was demonstrated in this study, also to develop effective and sustainable strategies for the preservation of print publications, strategies and approaches which could also serve as a foundation for the future preservation of electronic publications.

The role of the NLSA in ensuring not only the “revival” of legal deposit but also its survival, and by implication the survival of the national print and electronic published heritage of South Africa, is critical in this regard (Brophy, 2001: 19; De Beer, 2003: 74; Jasion, 1991: 7; Lor, Britz & Watermeyer, 2006: 45). Its current responsibility for the legal deposit of print publications makes it the logical choice to coordinate the legal deposit of electronic publications, as was demonstrated when the spokesperson for the FLISD project concerned with the future

preservation of digital material (see above) suggested that the place responsible for capturing, organising and preserving electronic publications should most probably be the National Library which could be regarded as “an institution with a long-term commitment to the preservation of the national heritage” (Lor, Britz & Watermeyer, 2006: 49).

The National Library of South Africa (previously the State Library and the South African Library) has a long and imposing history of legal deposit (see chapter 4, section 4.5.1.2), and also of many innovative projects directly relating to legal deposit. Under the competent leadership of Hans Jurgen Aschenborn, Director of the (then) State Library, for example, the national bibliography in 1968 became the second in the world to be fully computerised (Lor & Geustyn, 2001). Another good example of an exemplary initiative was that of Peter Lor who, in his capacity as National Librarian of South Africa, was instrumental in developing the new Legal Deposit Act that, at the time of its promulgation, was one of the first in the world to make provision for the legal deposit of electronic publications.

However, the importance the NLSA and the other legal deposit libraries currently give to their role as stewards of the national cultural heritage is debatable. The disappointing results disclosed by this investigation suggest that the libraries have to some extent sidelined legal deposit. Other matters reinforce this impression:

- A recent announcement from the NLSA, that some of the money that was received as a grant from the Carnegie Corporation of New York would be spent on the retrospective cataloguing of the NLSA collection and that there would be a drive towards acquiring a “comprehensive collection of books and reference materials” (Malotle, 2005) written in the eleven official languages of South Africa, can perhaps be seen as positive initiatives.

However, there is firstly no mention of the necessity of looking into a programme of acquiring missing retrospective legal deposit material either by purchase or other means as suggested by Lariviere (2000). Only the cataloguing backlog-issue is addressed.

It is in addition extremely disturbing that absolutely no mention is made of legal deposit in especially the second initiative, the collection of books mentioned above. With no explanations given for those actions, the impression is created that the obviously South African, perhaps even new, material is going to be only bought with the money received, with no attempt to acquire them through the existing compulsory legal deposit processes.

- Although the impression cannot be fully proved, the NLSA does seem to have surrendered any efforts at taking the responsibility for activities and planning for the future of the legal deposit of electronic materials to the FLISD project discussed above. The Legal Deposit Committee action plan (NLSA, Legal Deposit Coordination, 2005) makes no mention of specific plans to address the issue in future, and during a recent extensive discussion with the legal deposit coordinator on a variety of legal deposit issues, the subject of electronic publications was also never introduced (Ramohlola, 2006).
- The current backlog in the compilation of the SANB is another serious concern in plans for the successful implementation and monitoring of legal deposit, as was pointed out in chapter 7, section 7.2.3.2(i). Although the above mentioned project for the retrospective cataloguing of the NLSA is extremely important, the researcher has been unable to find evidence in personal

conversations with the relevant national library staff in Pretoria (Battison, 2006; Ramohlola, 2006), that extra personnel and/or money is being allocated to ensure that compilation of the current SANB stays ahead with all the new material that is continuously received.

These examples clearly indicate that the “passive collection” (Vitiello, 1994: 81) of publications, as has been the practice of deposit libraries in South Africa until recently, is not sufficient. Even if all the above problems are adequately addressed, overall shortages in staff, financing, and lack of expertise are major obstacles hindering the effective administration and management of legal deposit and any hope of high levels of compliance. The reality seems to be that the necessary dramatic change in the current financing and resources situation of the National Library and the other legal deposit libraries is not imminent. One way of solving this problem lies in cooperation (Field, 2002; Lor, Britz & Watermeyer, 2006: 45; Phillips, 1997: 45; Whitehead, 1995). Broad-based collaborative efforts between a wide range of parties are already necessary and will become even more so in the future. Actively promoting and seeking such collaboration is vital, especially with a view to the future implementation of legal deposit of electronic publications.

### ***8.3 Concluding comments***

This project aimed to provide an overview of the current legal deposit situation of print publications in South Africa. Many weaknesses and problem areas were identified and recommendations for overcoming these gaps and improving the practical implementation and monitoring of legal deposit provided. This project has been valuable in providing a clear

picture of the current legal deposit scenario but does not solve all the problems.

The legal deposit libraries firstly need to examine the position of legal deposit on their list of priorities. The successful implementation of a legal deposit programme is an ongoing process that depends on an explicit and strategic focus (Lor, 2003b: 148) which must be executed by dedicated and effective personnel and supported by adequate infrastructure and committed management. None of this is possible without the full commitment of the library staff and management. This is a core issue that needs to be urgently addressed by all concerned.

The difficult road of preserving electronic publications still lies ahead. The project managed by the FLISD on behalf of the National Library, to plan for the deposit of web-based material, is a first step. However, further research into the question of who will take responsibility for preserving the publications, and into the development of well coordinated and sustainable methods of actually putting the processes into practice is urgently needed.

It is imperative that legal deposit is not seen as “merely a quiet backwater of library and information services” (Lor, 1995: 110). It is time that everyone, governing bodies, libraries, researchers and the general public, appreciates and recognises the exceptional value of legal deposit and thus the undeniable importance of and need for an effective functioning legal deposit system. The longer this important national issue is ignored and pro-active action is postponed, the more of our national published cultural heritage will be irrevocably lost.

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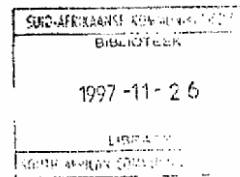
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## APPENDIX A

### Legal deposit Act



REPUBLIC OF SOUTH AFRICA



# GOVERNMENT GAZETTE

## STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

*Registered at the Post Office as a Newspaper*

*As 'n Nuisblad by die Poskantoor Geregistreer*

VOL 389

CAPE TOWN, 14 NOVEMBER 1997

No. 18424

KAAPSTAD, 14 NOVEMBER 1997

PRESIDENT'S OFFICE

No. 1511. 14 November 1997

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 54 of 1997: Legal Deposit Act, 1997

KANTOOR VAN DIE PRESIDENT

No. 1511. 14 November 1997

Hierby word bekend gemaak dat die President sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 54 van 1997: Wet op Pliglewering, 1997,

## ACT

To provide for the preservation of the national documentary heritage through legal deposit of published documents; to ensure the preservation and cataloging of, and access to, published documents emanating from, or adapted for, South Africa; to provide for access to government information; to provide for a Legal Deposit Committee; and to provide for matters connected therewith.

*(Afrikaans text signed by the President.)  
(Assented to 6 November 1997.)*

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

### Definitions

1. In this Act, unless the context indicates otherwise—

- (i) "Committee" means the Legal Deposit Committee referred to in section 8; 5
- (vii)
- (ii) "Department" means the Department of Arts, Culture, Science and Technology; (iii)
- (iii) "document" means any object which is intended to store or convey information in textual, graphic, visual, auditory or other intelligible format through any medium, and any version or edition of a document which is significantly different from that document in respect of its information content, intelligibility or physical presentation, is considered to be a separate document; (iv) 10
- (iv) "medium" means any means of recording or transmitting information intended for subsequent reading, listening or viewing; (viii) 15
- (v) "Minister" means the Minister of Arts, Culture, Science and Technology; (ix)
- (vi) "official publication" means a document published by an organ of national, provincial or local government, a parastatal organisation or any other institution listed as a public entity in terms of section 3 of the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992); (i) 20
- (vii) "official publications depository" means a place of legal deposit designated in accordance with section 6; (ii)
- (viii) "place of legal deposit" means a library or institution referred to in section 6; (x) 25
- (ix) "prescribed" means prescribed by regulation made under section 12; (xii)
- (x) "published" means produced to be generally available in multiple copies or locations to— 30
  - (a) any member of the public, whether through purchase, hire, loan, subscription, licence or free distribution; or
  - (b) the members of an association or a society, the membership of which is open to any qualifying member of the public; (v)
- (xi) "publisher" means the person who or body, whether public or private, which— 35
  - (a) publishes and distributes a document;
  - (b) authorises and accepts the financial risk of the production, whether by that person or body or by another, of a document which is intended to be generally available;
  - (c) 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; (xi) 40

- (xii) "this Act" includes the regulations made under section 12. (vi)

**Deposit of documents and information**

2. (1) A publisher shall for each published document supply to the prescribed places of legal deposit the prescribed number of copies in the format and of the quality prescribed for each version and type of medium: Provided that the prescribed number of copies of documents other than official publications shall not exceed five. 5

(2) A publisher shall for each published document furnish the State Library with the prescribed information pertaining to that document.

**cost**

3. The cost of documents supplied in terms of section 2(1) and of the information furnished in terms of section 2(2) and of the supply and furnishing of such documents and information shall be borne by the publisher. 10

**Time of deposit**

4. Unless otherwise prescribed, the publisher shall dispatch a document contemplated in section 2(1) and furnish the information contemplated in section 2(2) within 14 days 15 of the day on which the document is published.

**Exemptions**

5. (1) (a) If, owing to the high unit cost of publishing any particular document, or its unique or labour-intensive production method, the publisher of such document 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 in terms of section 2(1), the Minister may, upon application from the publisher and after consultation with the Committee, exempt such publisher from the obligation to supply a copy of such document to such place or places of legal deposit as may be specified by the Minister. 20

(b) The Minister shall not exempt a publisher under paragraph (a) from his or her obligation to supply a copy of a document to the South African Library or the National Film, Video and Sound Archives, as the case may be, and to furnish the State Library with the information contemplated in section 2(2). 25

(c) The Minister may, after consultation with the Committee, 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, as the case may be: Provided that such relief shall not exceed the cost of producing an additional copy of such documents. 30

(2) If a place of legal deposit does not require a particular document, or a particular category of documents, to which the provisions of section 2(1) apply, the head of such place of deposit may exempt the publisher in writing from the obligation to supply a copy of such document or category of documents to that place of legal deposit. 35

(3) If a publisher is exempted under this section from the obligation to supply a copy of a document to the State Library, such publisher must nevertheless furnish the State Library with the information contemplated in section 2(2) relating to that document. 40

(4) An exemption granted under subsection (1)(a) or (2) in respect of a particular document or any particular category of documents may be withdrawn in writing by the Minister or the head of the place of legal deposit in question, as the case may be.

**Places of legal deposit**

6. (1) The places of legal deposit shall be— 45  
(a) the City Library Services, Bloemfontein:

- (b) the Library of Parliament, Cape Town;
- (c) the Natal Society Library, Pietermaritzburg;
- (d) the South African Library, Cape Town;
- (e) the State Library, Pretoria;
- (f) the National Film, Video and Sound Archives, Pretoria, for purposes of certain 5 categories of documents as prescribed; and
- (g) any other library or institution prescribed by the Minister for purposes of certain prescribed categories of documents.

(2) (a) The Minister shall, on the recommendation of the Member of the Executive Council responsible for libraries in each province, designate at least one place of legal 10 deposit in each province [o serve as an official publications depository, which shall be entitled to receive a copy of every official publication but not of other categories of documents.

(b) Except in the case of subsection (1)(b), an official publications depository maybe designated in an existing place of legal deposit if the Minister deems this advisable: 15 Provided that such a place of legal deposit shall retain its right under section 2(1) also to receive documents other than official publications.

(3) The Minister or the relevant Member of the Executive Council for each province shall, from funds voted for that purpose by Parliament or the relevant Provincial Legislature, as the case may be, disburse such sums as are necessary to places of legal 20 deposit to enable them to fulfil their obligations.

**Duties of places of legal deposit**

7. (1) A place of legal deposit shall, subject to such limitations as may be prescribed—

- (a) receive, accession, retain and preserve;
- (b) catalogue or inventorise; and 25
- (c) ensure freedom of access to.

the documents supplied in terms of section 2(1).

(2) The State Library shall, with the assistance of other places of legal deposit and other appropriate libraries or institutions, compile—

- (a) a national bibliography; and 30
- (b) statistics of the South African production of published documents on the basis of the documents supplied in terms of section 2(1) and the information furnished in terms of section 2(2).

(3) The South African Library and the National Film, Video and Sound Archives shall, with the assistance of other places of legal deposit, preserve at least one copy of 35 each document supplied in terms of section 2(1) for current and future use,

(4) An official publications depository shall—

- (a) serve as a centre for promoting public awareness of, and access to, official publications and information held by the government and the institutions listed in terms of section 3 of the Reporting by Public Entities Act, 1992 (Act 40 No. 93 of 1992); and
- (b) provide public access to databases and other information sources to which the public may gain access under any law.

(5) Notwithstanding subsections (1) and (2), the head of a place of legal deposit may, 45 on the recommendation of the Committee—

- (a) dispose of;
- (b) omit from catalogues or inventories;
- (c) omit from a national bibliography; or
- (d) impose restrictions on access to,

certain categories of documents, supplied in terms of section 2(1) to one or more places 50 of legal deposit.

(6) If a place of legal deposit persistently fails to comply with subsection (1), (2), (3) or (4), the Minister may, upon the recommendation of the Committee, by notice in the 55 *Gazette* exempt all publishers from the obligation to supply to that place of legal deposit the documents contemplated in section 2(1).

**Legal Deposit Committee**

8. (1) There is hereby established a committee called the Legal Deposit Committee, consisting of—

- (a) the heads of the places of legal deposit referred to in section 6(1);
- (b) the head of the Government Printing Works;
- (c) one representative for all provincial official publications depositories, designated by the Minister in the prescribed manner; and
- (d) two representatives of the publishing industry, designated by the Minister in the prescribed manner;

Provided that the regulations prescribing the manner of designation shall apply the principles of transparency and representivity.

(2) The Minister may appoint no more than four additional members to the Committee in the prescribed manner to represent other interested parties, including 10 representatives of library and information services.

(3) The Minister shall, in consultation with the various interest groups, such as the publishers and the library and information services sector, appoint one of the members in the prescribed manner as chairperson of the Committee to serve for a renewable term of three years. 15

(4) The object of the Committee is to coordinate and promote the implementation of this Act.

(5) The Committee shall—

- (a) advise the Minister on any matter dealt with in this Act;
- (b) make recommendations to the Minister concerning any regulations which the 20 Minister may make under this Act;
- (c) co-ordinate the tasks earned out by the various places of legal deposit in respect of legal deposit;
- (d) advise any place of legal deposit regarding any matter dealt with in this Act;
- (e) establish subcommittees or working groups when necessary to investigate any 25 matter dealt with in this Act and to execute any tasks relating to the implementation of this Act and to co-opt persons to such subcommittees or working groups for the duration of the investigation or task; and
- (f) report to parliament on the activities and financial affairs of the places of legal deposit in accordance with the provisions of the Reporting by Public Entities 30 Act, 1992 (Act No. 93 of 1992).

(6) No remuneration shall be payable to the members of the Committee or the members of its subcommittees or working groups other than such reasonable travel and subsistence costs as the Minister with the concurrence of the Minister of Finance may determine within the limits of the approved budget of the Committee, its subcommittees 35 and working groups.

#### Offences

9. Any publisher who fails to comply with section 2, 3, 4 or 5(3) shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000.

#### Action to remedy non-compliance

40

10. (1) (a) If a publisher fails to supply the documents contemplated in section 2(1) to one or more places of legal deposit, an officer authorised thereto by the Minister may in the prescribed manner demand that such documents be supplied to such place or places of legal deposit within 30 days.

(b) If, on the expiration of that period, such documents have not been received by the 45 place or places of legal deposit in question, such officer may forthwith by purchase acquire the documents or, if copies are no longer available, cause a reproduction of acceptable quality to be made thereof and recover the cost of that purchase or reproduction from the publisher.

(2) If the officer is unable to acquire or reproduce the documents or recover the cost 50 thereof under subsection (1), the Department may, in consultation with the Committee, institute civil proceedings against such publisher.

#### Delegation of powers

11. (1) The Minister may delegate any power conferred upon him or her by this Act to an officer in the Department. 55

(2) A delegation under subsection (1) shall not prevent the exercise of the power in question by the Minister himself or herself.

**Regulations**

12. The Minister may make regulations regarding—  
(a) any matter which is required or permitted to be prescribed under this Act; and 5  
(b) generally, any matter which is necessary or expedient to be prescribed in order to achieve the objects of this Act.

**Act binds State**

13. This Act, except section 9, shall bind the State.

**Repeal of laws**

10

14. The laws mentioned in the Schedule are hereby repealed to the extent set out in the third column thereof.

**Short title and commencement**

15. This Act shall be called the Legal Deposit Act, 1997, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*. 15

**Schedule**

**Laws repealed**

Number and year of law	Title	Extent of repeal
Act No. 11 of 1977 (Transkei)	National Library Service Act, 1977	Section 12
Act No. 8 of 1978 (Bophuthatswana)	Bophuthatswana National Library Service Act, 1978	Section 19(5)
Act No. 18 of 1980 (KwaZulu)	KwaZulu Library Act, 1980	Section 7
Act No. 19 of 1980 (Ciskei)	Ciskeian Library Services Act, 1980	Section 12
Act No. 12 of 1981 (Venda)	Venda National Library Services Act, 1981	Section 14(4)
Act No. 4 of 1982 (Gazankulu)	National Library Service Act, 1982	Section 14(4)
Act No. 17 of 1982	Legal Deposit of Publications Act, 1982	The whole
Act No. 10 of 1983 (Qwaqwa)	National Library Service Act, 1983	Section 14(4)
Act No. 7 of 1991 (Lebowa)	Central Library Service Act, 1991	Section 15



## APPENDIX B

# Regulations under the Legal Deposit Act

STAATSKOERANT, 26 JUNIE 1998

No. 18992 63

### DEPARTMENT OF ARTS, CULTURE, SCIENCE AND TECHNOLOGY DEPARTEMENT VAN KUNS, KULTUUR, WETENSKAP EN TEGNOLOGIE

No. R. 836

26 June 1998

#### REGULATIONS UNDER THE LEGAL DEPOSIT ACT, 1997 (ACT NO. 54 OF 1997)

The Minister of Arts, Culture, Science and Technology has, under section 12 of the Legal Deposit Act, 1997 (Act No. 54 of 1997) made the regulations in the Schedule.

#### SCHEDULE

#### PART 1

#### DEFINITIONS

1. In these regulations any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it and, unless the context indicates otherwise—

"book" means a set of printed sheets bound together along one edge and enclosed within protective covers to form a volume;

"cinematographic film" means a sequence of images on film capable of being seen as a moving picture when used in conjunction with a mechanical or other device, and includes the sounds embodied in a sound-track associated with the sequence of images;

"dynamic electronic document" means a document in which the information content is generated or formatted electronically, stored by computer technology and made available to users online;

"edition" means a version of a document;

"head of a place of legal deposit" means the chief executive officer of a place of legal deposit or the person who is acting as such;

"luxury edition" means a special edition of a book of which more than one edition is published where the special edition is distinguished from other editions of that book by its larger dimensions, the inclusion of additional content of a decorative or aesthetic nature, or its manufacture from materials which render the edition more costly than any other edition;

"map" means a document depicting in graphic or photogrammetric form a selection of material or abstract features on or in relation to the surface of the earth or of a heavenly body;

"married" means the final composite print of a cinematographic film in which the images and sound tracks are combined on a single strip of film;

"microform" means a document in any medium on which micro-images have been recorded and which cannot be read without appropriate magnifying equipment;

"multi-media" means a document consisting of more than one medium, but which constitutes a distinct unit;

"musical text" means the notation of a musical composition;

"poster" means a document printed on one side of a single sheet of paper;

"reprint" means a copy of a document, made from the same type or printed from the same master file as the original, with which it is identical except for possibly a new title page and a note on the verso of the title page of the number and date of reprinting and the correction of minor errors;

"serial document" means a document, issued in successive parts, usually having numerical or chronological designations, and intended to continue indefinitely, whatever the periodicity;

"sound recording" means a document in any medium on which sounds have been recorded, but does not include a sound-track incorporated into a cinematographic film or video;

"static electronic document" means a document in which the information content is generated or formatted electronically, stored by computer technology, and distributed as discrete objects;

"the Act" means the Legal Deposit Act, 1997 (Act No. 54 of 1997);

"video" means a document on magnetic tape or other medium on which images capable of being seen when used in conjunction with an electronic or other device have been recorded, and includes the sounds embodied in a sound-track associated with the images.

#### PART II

#### FORMAT AND QUALITY

2. The format and quality of any document shall be the format and quality in which the producer originally made any edition, re-edition, or reprint generally available, unless otherwise authorised by the Committee.

3. If a book is published simultaneously in hard- and softcover editions, only the hardcover edition shall be supplied to the prescribed places of legal deposit, but in the case of the State Library, both the hardcover and softcover editions shall be supplied.

4. In the case of a microform and a video, the deposit copy shall be of a quality appropriate for long-term preservation and copying.
5. A dynamic electronic document shall be supplied only on instruction from the State Library, which shall specify the format or modality of access that it requires.
6. In the case of a cinematographic film the deposit copy shall be a new, unused married print.
7. In the case of a sound recording that is published in more than one medium, copies of each type shall be supplied.

**PART III**

**DEPOSIT OF DOCUMENTS OTHER THAN OFFICIAL PUBLICATIONS**

8. The number of copies of each document, as set out in the first two columns, to be supplied to the places of legal deposit, shall be as set out in the third column of the following table:

Version and type of document	Number of copies to be supplied if number of copies constituting edition is—			Places of legal deposit to which copies must be supplied #					
	less than 20	20 to 99	100 and more	BCL #	LP #	NSL #	SAL #	SL #	NFA #
Books: Standard editions .....	0	1	5	1	1	1	1*	1	
Books: Luxury editions .....	0	1	1				1		
Books: Reprints .....	0	1	1					1	
Microforms .....	0	1	5	1	1	1	1*	1	
Maps .....	0	1	5	1	1	1	1*	1	
Musical texts .....	0	1	5	1		1	1*	1	1
Posters .....	0	1	1					1	
Serial documents .....	0	1	5	1	1	1	1*	1	
Cinematographic films .....	1	1	1						1
Electronic documents (static) .....	0	1	5	1	1	1	1	1*	
Multimedia .....	0	1	5	1		1	1	1	1*
Sound recordings .....	1	1	5	1		1	1	1	1*
Videos .....	1	1	5	1		1	1	1	1*

# Names of places of legal deposit:

BCL: City Library Services, Bloemfontein  
 LP: Library of Parliament  
 NSL: Natal Society Library  
 SAL: South African Library  
 SL: State Library  
 NFA: National Film, Video and Sound Archives

\* This place of legal deposit takes priority if only one copy of a document must be supplied.

9. In the case of serial documents the time allowed for dispatch is 14 days or the period between successive issues, whichever is the shorter.

**PART IV**

**BIBLIOGRAPHICAL INFORMATION**

10. (1) Each document, except the documents referred to in regulations 11, 12, 13 and 14, supplied to the State Library or the National Film, Video and Sound Archives shall be accompanied by bibliographic information on an information sheet according to specifications to be provided for that type of document. That information shall be used by the State Library in compiling the national bibliography and national publishing statistics.

- (2) The State Library or the National Film, Video and Sound Archives may make further provisions for information required on the information sheet.

11. Any poster supplied to the State Library, Pretoria, shall be accompanied by information concerning the title, artist, designer and publisher.
12. (1) Any cinematographic film or video supplied to the National Film, Video and Sound Archives shall be accompanied by—
- (a) information concerning the publisher, producer, the laboratory, studio, distributor, participants, year of production, length, running time, copyright, technical and physical aspects; or
  - (b) a credit list for opening and end titles of the production.
- (2) The State Library or the National Film, Video and Sound Archives may make further provisions for information required on the information sheet.
13. Any dynamic electronic document supplied to the State Library shall be accompanied by information as specified by the State Library.
14. (1) Any sound recording supplied to the National Film, Video and Sound Archives shall be accompanied by information concerning the publisher, producer, distributor, artists, copyright, technical and physical aspects.
- (2) The State Library and the National Film, Video and Sound Archives may make further provisions for information required on the information sheet.

## PART V

### LEGAL DEPOSIT COMMITTEE

15. For the purpose of section 8 (1) (c) of the Act, the Minister shall invite nominations from the Member of the Executive Council responsible for libraries in each province, and from the shortlist designate one representative for all the provincial official publications depositories.
16. For the purpose of section 8 (1) (d) of the Act, the Minister shall invite nominations from nationally recognised publishers' associations, and from the shortlist, designate two representatives from the publishing industry.
17. For the purpose of section 8 (2) of the Act, the Minister shall invite nominations from library and information services and other interested parties and, from the shortlist, designate no more than four additional members to the Committee.
18. (1) On the recommendation of the members of the Committee, the Minister shall appoint one of the members as Chairperson.
- (2) The vice-chairperson shall be elected at the first meeting of the Committee.
- (3) Except for the heads of places of legal deposit, members of the Committee shall hold office for a period not exceeding three years and shall be eligible for reappointment for one additional term, after which they shall not be eligible for reappointment until a further three years have lapsed.
- (4) Except for the heads of places of legal deposit any member of the Committee shall vacate his/her office if—
- (a) the member resigns; or
  - (b) the Minister terminates the membership of the member on the grounds of misconduct, incapacity or incompetence and non-attendance of three meetings without leave of absence.
- (5) In the event of the death or resignation of a member, the vacancy shall be filled in the prescribed manner for the remaining part of the term.
- (6) The secretary shall be a staff member of the Department.
- (7) An ordinary meeting of the Committee shall be held at least twice a year at such a venue, date and time as the chairperson, or in the absence of a chairperson, the vice-chairperson, shall determine in consultation with the Department.
- (8) A special meeting of the Committee shall be held—
- (a) by order of the Minister; or
  - (b) on a written request signed by at least half the members of the Committee.
- (9) The chairperson, or in his/her absence, the vice-chairperson, shall determine the venue, date and time of a special meeting in consultation with the Department.
- (10) The secretary shall dispatch the agenda of an ordinary meeting of the Committee at least four weeks prior to the date of the meeting to all members of the Committee.
- (11) At least half of the members of the Committee shall form a quorum at any meeting of the Committee.
- (12) The secretary shall record the minutes of a meeting of the Committee, and shall send the draft minutes to all the members.
- (13) The chairperson and the secretary shall sign the approved minutes at the next meeting of the Committee.
- (14) Decisions of the Committee shall be made by majority vote, the chairperson having a deliberative vote and, in the event of an equality of votes, a casting vote.

## PART VI

### TITLE OF REGULATIONS

19. These regulations shall be called the Legal Deposit Regulations.

## APPENDIX C

### Outline of interview schedule for publishers

#### **Introduction**

Thank you for willingness to be interviewed.

Information provided on what study is about, scope of study, why it is being conducted, what will be done with results. Important: mention that this is not an investigation to “check” whether publishers have complied with legal deposit, merely a survey on opinions, feelings and attitudes on legal deposit.

Confidentiality stressed.

Explanation of the format of the interview.

Obtain permission to tape the interview.

#### **General questions**

Question about interviewee’s personal role in the organisation in general, and with regard to legal deposit.

Question on personal knowledge and awareness of legal deposit legislation and legal deposit obligations of publishers.

Personal awareness of (new) Legal Deposit Act of 1997.

Awareness of other staff in organisation of legal deposit.

Awareness of authors of legal deposit.

Provide a short overview of mechanisms and procedures in the organisation to ensure that copies of publications are submitted for legal deposit e.g. person responsible, any check mechanisms in place such as duplicate lists and date sent, receipts from legal deposit libraries.

#### **Issues covered by legislation**

##### *Opinions on aims of legal deposit:*

- Preservation of publications
- Use of material in the legal deposit libraries  
How should material be used? e.g. only in the reference section; interlibrary loans.
- Compilation of the South African National Bibliography

##### *Number of copies to be deposited to legal deposit libraries*

Do you send to all five of the libraries?

If yes, what is your feeling about the fact that 5 copies of a publication have to be sent? If no, why do you not send?

##### *Costs*

Are you comfortable with the fact that the publisher has to bear the costs involved in sending publications as legal deposit?

### *Time of deposit*

How soon after publication does your organisation send its books to the legal deposit libraries?

(if publisher does not deposit): How soon after publication would you think is a practical time to send publications?

Do you know what the time stipulation is in the Act?

### *Types of publications to be deposited*

What material do you send to the legal deposit libraries?

Can you think of any instance that a publisher could or should be exempted from delivering a publication?

Has your organisation ever made an arrangement with one or more of the legal deposit libraries not to send a copy of a publication?

Have you ever thought about asking for exemption?

### *Communication*

a) General communication

How do you communicate with the legal deposit libraries?

b) Communication regarding depositing of publications

Can you recall any instance that you have ever had a problem with one of the five libraries regarding delivering material as legal deposit?

Have you ever been contacted by the libraries for not delivering your publications?

What would your reaction be if a library threatened you with the law for not delivering you publications as legal deposit?

Can you tell me what the penalty under South African law is for non-compliance?

### **Open-ended questions**

Do you think can be done to trace smaller “untraceable” publishers?

Have you got any other opinions or ideas on legal deposit that we have not covered today?

### **Conclusion**

What do you think are the benefits of the system of legal deposit for you as a publisher?

Final thank you.

\*\*\*\*\*

## APPENDIX D

### Outline of interview schedule for libraries

#### Introduction

Thank you for willingness to be interviewed.

Information on what study is about, scope of study, why it is being conducted, what will be done with results. Important: mention that this is not an investigation to “check” whether publishers have complied with legal deposit, merely a survey on opinions, feelings and attitudes on legal deposit.

Confidentiality: a specific library will not be identified with a specific opinion given.

Explanation of the format of the interview.

Permission to tape the interview.

#### General questions

Question about the individual roles of the persons present at the interview, in the organisation in general, and with regard to legal deposit.

Question on personal knowledge and awareness of legal deposit legislation and legal deposit obligations of publishers.

Personal awareness of (new) Legal Deposit Act of 1997.

Awareness of other staff in organisation of legal deposit.

Awareness of authors of legal deposit.

#### Duties of places of legal deposit

What processes are in place in your institution with regard to:

Accessioning and preserving the documents received as legal deposit?

Ensuring free access to the material?

Cataloguing of the material received as legal deposit?

#### Issues covered in legislation

Please provide opinions freely on the various issues. What are your opinions on:

*Number of copies* of publication that publishers to deliver as legal deposit i.e. one copy to each of the five libraries?

*Costs* that publisher has to bear in delivering the material?

*Time* of deposit. Do publishers adhere to the 14-day stipulation of the Act?

*Types of publication* sent as legal deposit.

What do you not receive?

Do you have any problems regarding types of publications subject to legal deposit?

### ***Exemptions***

Are you aware of the provisions in the Act for providing exemption from legal deposit?

Are you aware of any cases where a publisher has been exempted from delivering a publication to your library?

(if yes, ask what type of publication and reason for exemption and whether relevant bibliographic information is sent to the National Library in Pretoria as stipulated by the Act)

### **Communication**

Please expand on communication with publishers generally and regarding legal deposit issues; also communication with the other legal deposit libraries, and with the Legal Deposit Committee.

### **Enforcing and monitoring legal deposit**

Please provide information on mechanisms and procedures in place in the library to ensure that copies of publications are submitted for legal deposit, tracing procedures, follow-up procedures etc.

Any problems experienced with legal deposit?

### **Open-ended questions**

How do you think the persons or institutions responsible for legal deposit in South Africa can ensure more effective compliance with legislation?

How can “untraceable” smaller publishers be traced?

### **Conclusion**

Have you got any other opinions or ideas on legal deposit that we have not covered today?

Final thank you.

\*\*\*\*\*



## APPENDIX E

### British Library home page (http://www.bl.uk)

**LIBRARY BRITISH**

# THE BRITISH LIBRARY The world's knowledge

About us | Collections | Catalogues | Services | What's on | News | Contact us



### Go to

- Services for researchers**  
Whether you use our reading rooms or do your work elsewhere
- Services for business**  
Our expertise and secure electronic delivery system can help you
- Services for library and information professionals**  
Including archivists and curators
- Online Gallery**  
See our treasures and find out what's on at our London building
- Learning area**  
Resources for learners and teachers
- Support us**  
We need your help to enhance our collections and services
- Press Room** Information for journalists

### Site search

[Search tips](#)

[Search our catalogues](#)

[Buy books and more from our Online Shop](#)

[Turning the Pages™: 16 great books](#)

[Treasures in Full - complete digitised texts](#)

### What's new

- [Public Sector Spending Review](#)  
Help support the Library
- [Forthcoming new home page](#)  
Try it out now
- [Adopt a Book for valentines day](#)  
Choose a novel present
- [Leonardo notebooks reunited](#)  
Turning the Pages 2.0
- [Diary of Dr Saad Eskander](#)  
Director of Iraq National Library
- [Freedom of Information](#)  
British Library publication scheme

### Adopt a Book for Valentines Day



### Quick links

- [Who we are](#)
- [What you can do on this website](#)
- [Legal deposit](#)

**BUSINESS & IP CENTRE** →





## APPENDIX F

### Various pages from National Library of Australia website (<http://www.nla.gov.au>)



- ▶ [New Users](#) - A basic introduction for anyone new to us.
- ▶ [Education](#) - What we have to offer students.
- ▶ [Researchers](#) - How we can help advanced researchers.
- ▶ [Family Historians](#) - A starting point for people researching their family history.
- ▶ [Libraries](#) - Library professionals can start here to find links to useful services.
- ▶ [Publishers](#) - Access to services for publishers.
- ▶ [Sponsors & Donors](#) - How you can help with sponsorship and fundraising.
- ▶ [Friends](#) - Find out about being a Friend of the Library.
- ▶ [Volunteers](#) - Interested in volunteering at the Library? Start here.
- ▶ [Community Groups](#) - Of interest to groups within the community.

#### **International Standard Serial Numbers (ISSN)**

Apply for an International Standard Serial Numbers (ISSN) for your journal or newspaper or find out ISSN.

#### **International Standard Book Numbers (ISBN)**

Allocation of International Standard Book Numbers (ISBN) in Australia is administered by the ISBN Agency Australia operated by Thorpe Bowker.

#### **International Standard Music Numbers (ISMN)**

Apply for an International Standard Music Numbers (ISMN) for published music or find out about ISMN.

#### **Cataloguing in Publication (CIP)**

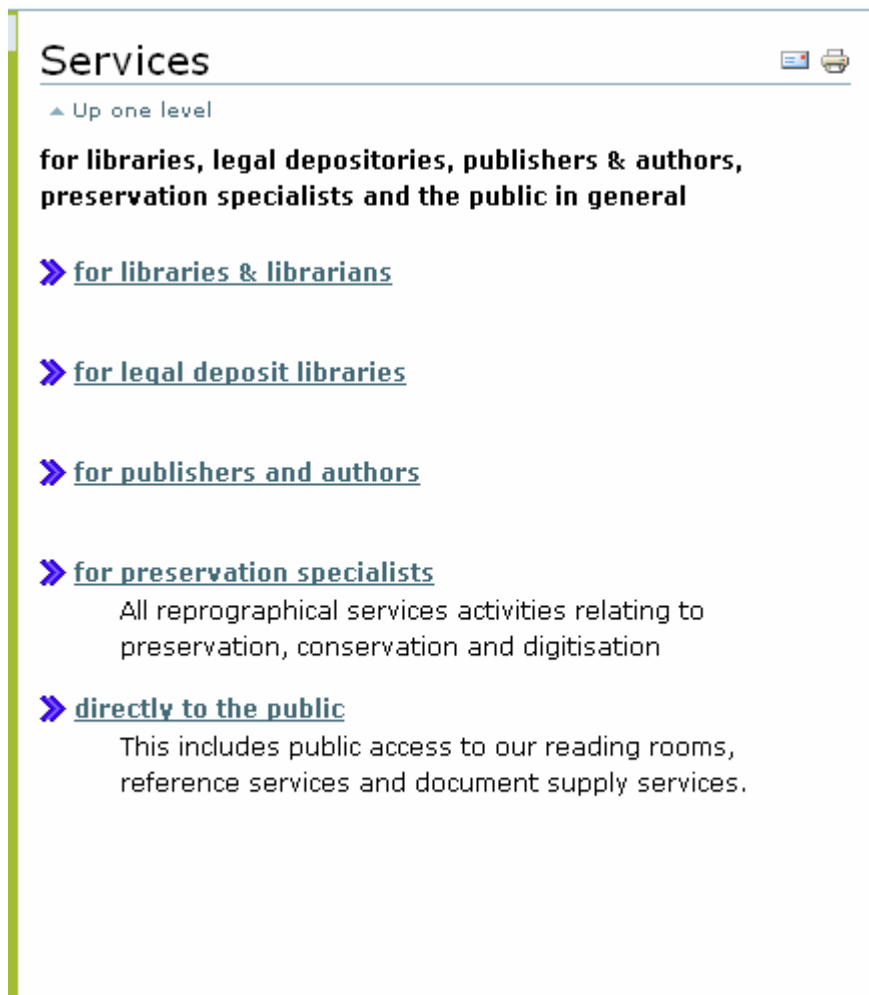
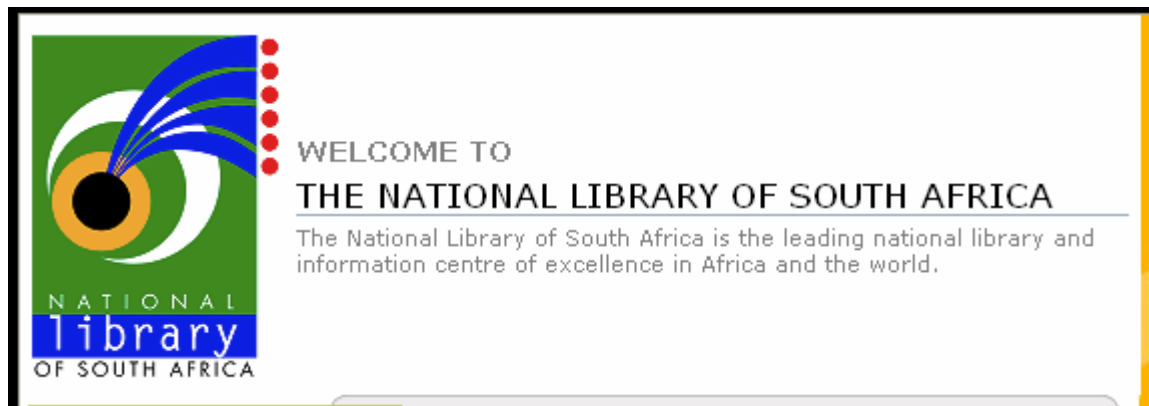
Obtain Cataloguing in Publication (CIP) for your publications.

#### **Legal Deposit**

Information on your Legal Deposit obligations.

## APPENDIX G

### Examples of pages on NLSA site (<http://www.nlsa.ac.za>)



## for publishers and authors



▲ Up one level

▶ [SA Publishers Directory](#)

▶ [ISN agency](#)

Management of the SA ISN agency with all related activities

▶ [ISBN-13 in South Africa](#)

▶ [Legal deposit information](#)

Legal Deposit Act, No. 54 of 1997; South African National Bibliography information sheet; South African National Bibliography information sheet (Afrikaans)

▶ [Publishing information](#)

ISBN, edition, impression and reprints explained

## Legal deposit information



▲ [Up one level](#)

### **Legal Deposit Act, No. 54 of 1997; South African National Bibliography information sheet; South African National Bibliography information sheet (Afrikaans)**

▶ [Legal Deposit Act, No. 54 of 1997](#)

▶ [SANB information sheet](#)

A form to be completed and sent to the National Library of South Africa, Pretoria Campus with the legal deposit copy of your publication

▶ [SANB inligtingsvorm](#)

A form to be completed and sent to the National Library of South Africa, Pretoria Campus with the legal deposit copy of your publication

▶ [Places of legal deposit](#)

List of South African legal depositories

## APPENDIX H

Legal deposit information found on Natal Society site  
(<http://www.lawsoc.co.za/lawlibrary/resources/legal/legaldepositsnsl.htm>)



# The Natal Society

NATAL SOCIETY LIBRARY, Churchill Square, P.O. Box 415, Pietermaritzburg, 3200  
Telephone (033) 345 2383 • Fax (033) 394 0095 • e-mail [nsl@futurenet.co.za](mailto:nsl@futurenet.co.za)

The Natal Society Library is funded primarily by the people of KwaZulu-Natal

The Natal Society Library was granted Legal Deposit status in 1916 by means of the Patents, Designs and Copyright Act, 1916. This was revised and became the Legal Deposit of Publications Act, no.17 of 1983. This act was later superseded by the Legal Deposit Act, no.54 of 1997.

The acts stipulated that South African publishers must deposit one copy of every publication for which they are responsible, free of charge, with each of the five legal deposit libraries.

### The Aim of Legal Deposit

Legal Deposit ensures that all South African publications are preserved for posterity. The availability and survival of publications is of national importance in the education of present and future generations of South Africans. The Legal Deposit collections provide the means for research into all aspects of South African life and culture, including the technical, scientific, artistic and commercial endeavours of the country.

### Role of Legal Deposit Libraries

The Legal Deposit libraries are obliged to collect, catalogue and preserve all legal deposit material and make it available for study and research.

## Legal Deposit Library

The Legal Deposit Library has the following to offer:

- Information produced by and about the South African government
- South African journals
- Legal books and pamphlets
- South African trade and commercial directories
- Information produced by organisations such as:
  - Statistics SA
  - CSIR
  - HSRC
  - Bureau for Marketing Research
  - SA Institute for Race Relations

## APPENDIX I

**Composite picture of SABookNews Online showing pamphlet  
with legal deposit information**  
(<http://www.booknews.co.za>)



### Pamphlets

#### **The Centre for the Book's pamphlet series for writers**

Answers questions and concerns of writers.

Written by experienced editors, writers and writing teachers.

**Getting started as a writer** by Rosamund Stanford. ISBN 0796100624

**Writing Practice: Keeping your writing alive** by Anne Schuster. ISBN 0796100640

**Editing your own writing** by Robert Berold. ISBN 0796100659

**The end. What now? Turning a first draft into a manuscript** by Helen Moffett. ISBN 0796100667

**Publishing opportunities for new writers** by Alan Finlay. ISBN 0796100683

**Finding your way around a publishing contract** by Karen Press. ISBN 0796100691

**Legal issues that concern writers** by Karen Press. ISBN 0796100705

**ISBN and places of legal deposit: what do they mean for a writer?** by Karen Press. ISBN 0796100713