

## Legal Deposit in Denmark - the New Law and Electronic Products

by HENRIK DUPONT

In 1997 Denmark celebrated the tricentenary of its legal deposit legislation and at the same time created a new law that surpassed the former 1927 text, which was out of date due to technological and political developments. In the first law on legal deposit, maps were not mentioned explicitly and we have no known examples of maps delivered before a revision of the law in 1781, which explicitly stated that maps and prints had to be deposited. It was only after 1850 that it became possible to follow what was deposited exactly. The number of maps deposited before was limited, not even including the first national survey maps. Maps were only produced in a limited number and the annual deposit did not exceed 600. We assume that all in all some 40,000 maps have been delivered to the collections by legal deposit. Each year since the Second World War the maps have been listed in the annual „Dansk Kortfortegnelse” and since 1980 all new maps have been catalogued in the REX database of the Royal Library.

Legal Deposit was introduced into Denmark as early as 1697, when a Royal Ordinance ordered all printers to deposit five copies of everything they printed with the Royal Library. The act had several successors, one of the most important being the Act of 1781, which extended the legal deposit to the entire Kingdom, then including Norway, Iceland, Greenland, the Faroe Islands and the Duchies of Schleswig and Holstein. This new deposit law aimed at forming a separate collection, the national collection, in contrast to earlier laws, and thus the history of the Danish Department began. Another important Act was that of 1902, which extended the legal deposit to cover all printed material at a time when industrialisation reached the printing industry. The result was a major increase in materials received by the Royal Library, and a new act of 1927 somewhat limited the amount to be deposited, primarily by reducing the number of copies to be deposited with the Royal Library to one, and by extending the list of ephemera exempted from deposit. During the past three decades several efforts have been made to revise the law of 1927 and the most recent proposal produced a new law concerning legal

deposit which was passed by the Danish parliament, the Folketing, and signed into law by the Queen on June 10th, 1997.

The new law came into effect on January 1, 1998 (see note 1 for the text), and signals something of a revolution in the history of legal deposit. The law covers not only printed material, but all works published in Denmark, regardless of the medium used for the production of copies. This definition also covers published works on the Internet, that form a final and independent unit and which have been produced for a Danish audience.

The main change in the text of the law is a shift from printed material to published material (regardless of the form of medium the information is published in). This obviously means that a whole new group of producers have to know the law and be ready to fulfil the intention of the law. Other changes are the definition of a work which has been defined as a limited quantity of information which must be considered a final and independent unit. A work is considered published when, with the consent of the author, copies of the work have been placed on sale or otherwise distributed to the public. This broadened upon in the next paragraph, as it is also considered a publication when, with the consent of the author, notice is given to the public that copies of the work are being produced and will be distributed to order or that the work is available from a database from which the user can retrieve a copy.

In paragraph 5 it is written that the publisher must (on demand from the copyright deposit institution) provide the information necessary for correct registration of the work in the national bibliography.

In paragraph 8 the problem of storing and registration is defined. Two copies have to be deposited but only to one address. It is then the state institution that has the responsibility to move the other copy to the second place, and there is an agreement between the Royal Library and the State Library about which types of material they are the most responsible for cataloguing and storing. The Royal Library has the responsibility for maps and electronic products (among other things) and especially Internet publications.

There have been campaigns in which the new publishers have been informed and a whole new way of delivering the material (especially the Internet publications) have been created. On a separate homepage (*Pligtafleivering* <<http://www.pligtafleivering.dk>>) the producers can read about the law, the intentions and fill out a table with information of the product and (most importantly) give the address of the homepage from which the Royal Library will then download the information. A homepage has even been produced

*Legal Deposit in Denmark - the New Law and Electronic Products*

where producers of information that are not legal deposit material are asked to state the address. This means that the information needed to produce the national bibliography is easily accessible. The Library believes that this should be the way new websites, that are Legal Deposit material, should be deposited.

The most critical text in the law is the criteria of a static document versus a dynamic document. This distinction could create big difficulties since the definition is not clear enough. In Sweden the Royal Library makes a complete snapshot of accessible homepages every four months, and although they don't have the legal rights to distribute the information, they hope to have it in future. They are therefore trying to get the information now because it will be too late when a new law has been confirmed. The situation in Denmark is that we do not have the right to make an active collection of pages that have not been reported to the Library. This is probably a matter of discussion with the Ministry of Culture when the law has to be evaluated during 1999. The Royal Library has created the download system together with the UNI-C, a state data research institute. The system should be easy to use and of course there is a great deal of security so the producers could be sure of not having their material out for free copying. This also means that the use of Legal Deposit material is restricted, as it is only possible to see the downloaded information on a stand alone computer in the Library, and this computer is without downloading possibilities. The results of downloaded websites during the first year is not impressive. Only 500 websites with 25,000 files have been delivered to the computers in the library. Compared to the results in Sweden, where more than 40,000 homepage addresses are downloaded, this shows that the law is either not well known enough or that the producers do not want to deliver the material.

Experiences with map producers are very small, as no-one has delivered websites at the moment. Maybe this is a result of what is defined as a static document since most map pages or information in homepages are dynamic or changeable. We have had deliveries of CD-ROMs produced by state agencies such as the National Survey, GEUS (Geological Survey of Denmark and Greenland) and a few others, but most or all private producers have not reacted to the information. At the moment we are negotiating with some private producers of maps, orthophotos and routeplanners to deliver these products and hopefully they will give access to all Danish produced electronic maps whether on CD-ROMs, disk or on the Internet. At the moment many Danish parishes and counties produce maps that are available to its citizens, and these maps ought to be preserved for the future but most of these maps are highly dynamic, changing very often and therefore are not legal deposit material. This creates also problems with the cataloguing and production of

the National Bibliography in the future. The system that has been set up is intended for easy delivery of the products and for easy production in the future of the National Bibliography but it is far from complete at the moment.

Another catalogue or bibliography of electronic maps was invented or made last year by the National Survey (KMS) and is called „Infodatabase” (<<http://www.geodata-info.dk/>>). It is accessible through the Internet, is free of charge, and this list is much more comprehensive about metadata than the standards used for the National Bibliography. This is probably one of the reasons why producers don't find it necessary to deliver the material to the library and find this way of giving information on products more useful.

Another explanation in the missing delivery could be the change of the products from simple products to multimedia or combined products as is the case with many modern products of spatial information. This creates new problems and challenges to map collections all over the world and can already be seen in many postings to discussions lists on the Internet. How can map collections survive in the future and how should we catalogue and give access to the electronic products produced in the modern information technology? At the Royal Library we still have to inform the producers with the necessity (if there is one) of delivering their products and at the same time convince those in power that they have to give the libraries the possibility to download and give access to all kinds of material, of course without disturbing the copyright of the producers.

The system of delivery of Internet products by a table on the homepage has to be centralized since many products contain text, figures, pictures, maps and tables. This creates problems in the way these products are catalogued. At the moment the librarians in charge of the homepage table create records for the National Bibliography from the information given by the producers, and if they have time they could look at alternative information. These librarians are generalist and we need to discuss how the map librarians could use their experience with maps. The new standards or demands on metadata of electronic or digital maps are quite comprehensive, and the easy access and easy producing of digital data creates several new problems with the quality of the map data that could be difficult to have in ordinary map records. Another problem in this case is the ever increasing demand to save time in cataloguing especially maps which are much more time consuming than other ordinary library products.

The new law for legal deposit gives us many opportunities to have some of the new digital material that are produced in the map sector but creates many problems because of the distinction between static and dynamic information.

*Legal Deposit in Denmark - the New Law and Electronic Products*

It gives us opportunities to reach new producers and new users of maps if we have the possibility to collect and catalogue a huge amount of the information. It is difficult today to have a wide view of map production. Is this the purpose of the map collections in libraries or is this task too big? I find it very important that we remind ourselves about the necessity of having digital products in the map collections if we don't want to become merely historical collections.

NOTE 1: TRANSLATION OF ACT NO. 423 OF 10 JUNE 1997. FILE NO. 1997.2301-1 OF THE DANISH MINISTRY OF CULTURE.

Act on Copyright Deposit of Published Works

WE MARGRETHE THE SECOND, By the Grace of God Queen  
of Denmark,  
make it known:

The Danish Parliament has passed and We have confirmed by  
Royal Consent the following Act:

1.
  - (1) Two copies of any work published in Denmark must be deposited with a copyright deposit institution, cf. section 9(1). This obligation applies regardless of the medium used for production of the copies.
  - (2) A work means a delimited quantity of information which must be considered a final and independent unit.
  - (3) A work is considered published when, with the consent of the author, copies of the work have been placed on sale or otherwise distributed to the public.
  - (4) It is also considered publication when, with the consent of the author, notice is given to the public that copies of the work are being produced and will be distributed to order, or that the work is available from a database from which the user can retrieve a copy.
  - (5) Distribution of copies among the public pursuant to the provisions of part 2 of the Act on Copyright is further considered publication.
  - (6) Publication in Denmark also includes cases when the copies have been produced abroad especially with a view to distribution in Denmark.
  - (7) Works in the form of computer programs must not be deposited unless a copy of a computer program constitutes a part of a work of another nature and is published together with this work.

2.
  - (1) The works must be deposited in the same form as that of the publication unless otherwise provided pursuant to section 9(1).
  - (2) If a work can only be made accessible by the use of technical equipment, the necessary instructions must accompany the deposited copies. In connection with digital publications and publications making use of non-standard equipment, the person under a copyright deposit obligation must, on demand from the copyright deposit institution, deposit the technical documentation necessary for making the work available when the technical equipment used is no longer on the general market. The person under a copyright deposit obligation may require that the technical documentation should not be made available for any third party.
  - (3) When works are published in the form of databases, cf. section 1(4), the person under a copyright deposit obligation must inform the copyright deposit institution of the publication and simultaneously enclose passwords and any other information necessary for the institution to gain access to the works. The copyright deposit obligation is fulfilled by the copyright deposit institution having access to request or make copies of the works.
  - (4) New editions of a work are also subject to the copyright deposit obligation.
3.
  - (1) Any person making finished copies for publication is subject to the copyright deposit obligation.
  - (2) If the producer cannot be unambiguously identified, the publisher has the copyright deposit obligation on demand from the copyright deposit institution. The publisher means the person effecting the distribution, cf. section 1(3).
  - (3) In connection with publications, the copying of which has been effected abroad, the publisher has the copyright deposit obligation, or, if this person is not a Danish resident, the importer representing the publisher in Denmark. If the publisher is resident abroad and there is no importer in Denmark, the publisher has the copyright deposit obligation.
4.
  - (1) Any work published in Denmark, cf. section 1, must state the name or company and domicile of the publisher.
5.
  - (1) The publisher must, on demand from the copyright deposit institution, provide the information necessary for correct registration of the work in the national bibliography.

*Legal Deposit in Denmark - the New Law and Electronic Products*

6.
  - (1) Expenses for production of the copyright deposit copies must be paid by the publisher. The person under a copyright deposit obligation pursuant to section 3(3) must pay the corresponding expenses for copies produced abroad.
  - (2) Expenses for postage, freight and the like are paid by the copyright deposit institution as further laid down by the Minister for Culture.
  - (3) The Minister for Culture also lays down further provisions about cases in which the copyright deposit institution can make full or partial reimbursement of the production costs.
7.
  - (1) Should the person under a copyright deposit obligation die or become administered in bankruptcy, the estate has the copyright deposit obligation.
8.
  - (1) The deposited copies are stored at two different geographical premises as further laid down by the Minister for Culture.
  - (2) The copies are included in the collections of the receiving institutions and made available to the users within the framework of the Act on Copyright. Copies of works in the digital form may only be made available to individual persons for personal inspection or studies in that place by means of technical equipment. Production of copies in the digital form is not permitted.
9.
  - (1) The Minister for Culture lays down further provisions about the form of the deposits, including the information which must accompany the deposited works, time limits of the deposits and the institution at which the deposits must be made.
  - (2) The Minister for Culture also lays down further provisions on storage and availability of the deposited works.
  - (3) The Minister for Culture may lay down provisions on exemptions from the copyright deposit obligation, including that certain kinds of works or works produced in a limited number of copies do not have to be deposited. The Minister may also lay down provisions on scrapping of deposited copies which are deemed not to be worth preserving for cultural or research purposes.
10.
  - (1) Violation of section 1(1), section 2 and section 4 is punished with a fine.
  - (2) Any person who does not comply with a demand under section 2(2), section 3(2) or section 5 is also liable to a fine.

HENRIK DUPONT

- (3) In the regulations laid down pursuant to section 9, a punishment in the form of a fine can be laid down for violation of the provisions of the regulations.
  - (4) Criminal liability may be imposed on companies, etc. (legal persons) under the rules in Part 5 of the Criminal Code.
- 11.
- (1) This Act will come into force on 1 January 1998.
  - (2) Act No. 160 of 1 July 1927 on Copyright Deposit of Printed Matter to Public Libraries is repealed.
  - (3) Section 13 of Act No. 186 of 12 March 1997 on Films is repealed.
- 12.
- (1) This Act does not extend to the Faroe Islands and Greenland.

Given at Christiansborg Castle, 10 June 1997  
Under Our Royal Hand and Seal

MARGRETHE R. / Ebbe Lundgaard

#### REFERENCES

- 1 <<http://www.kb.dk/kb/dept/nbo/da/saml-en.htm#6>>. Legal Deposit History and new law in English
- 2 <<http://www.pligtafleivering.dk/>>.Homepage to the Legal Deposit
- 3 <<http://www.pligtafleivering.dk/anmeld/anmeld.pl>>. Homepage Blanket for notifying if the publication is not directly included by the law the publisher or editor is recommended to register to the danish national bibliography.

Henrik Dupont  
Royal Library  
Kortsamlingen  
Chr. Brygge 8  
1016 Copenhagen, Denmark  
hd@kb.nl