

132AD Making infringing copy commercially

Indictable offence

- (1) A person commits an offence if:
 - (a) the person makes an article, with the intention of:
 - (i) selling it; or
 - (ii) letting it for hire; or
 - (iii) obtaining a commercial advantage or profit; and
 - (b) the article is an infringing copy of a work or other subject-matter; and
 - (c) copyright subsists in the work or other subject-matter when the article is made.
- (2) An offence against subsection (1) is punishable on conviction by a fine of not more than 550 penalty units or imprisonment for not more than 5 years, or both.

Note 1: A corporation may be fined up to 5 times the amount of the maximum fine (see subsection 4B(3) of the *Crimes Act 1914*).

Note 2: If the infringing copy was made by converting the work or other subject-matter from a hard copy or analog form into a digital or other electronic machine-readable form, there is an aggravated offence with a higher maximum penalty under section 132AK.

Summary offence

- (3) A person commits an offence if:
 - (a) the person makes an article, with the intention of:
 - (i) selling it; or
 - (ii) letting it for hire; or
 - (iii) obtaining a commercial advantage or profit; and
 - (b) the article is an infringing copy of a work or other subject-matter and the person is negligent as to that fact; and
 - (c) copyright subsists in the work or other subject-matter when the article is made and the person is negligent as to that fact.

Penalty: 120 penalty units or imprisonment for 2 years, or both.

- (4) An offence against subsection (3) is a summary offence, despite section 4G of the *Crimes Act 1914*.

Strict liability offence

- (5) A person commits an offence if:
 - (a) the person makes an article in preparation for, or in the course of:
 - (i) selling it; or
 - (ii) letting it for hire; or
 - (iii) obtaining a commercial advantage or profit; and
 - (b) the article is an infringing copy of a work or other subject-matter; and
 - (c) copyright subsists in the work or other subject-matter when the article is made.

Penalty: 60 penalty units.

- (6) Subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.