

PROBLEMS AND CONSTRAINTS EXPERIENCED BY PUBLISHERS CONCERNING LEGAL DEPOSIT IN KWAZULU- NATAL

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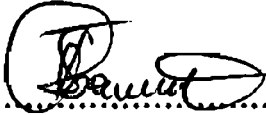
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DECLARATION

I hereby declare that, unless indicated to the contrary, this thesis is my own original work and has not been submitted to any other University for a similar or any other degree.

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Signed: 

Date: 10/04/2006

ABSTRACT

Legal deposit and its sustainability is a major problem that cannot be ignored in South Africa. The value of preserving and making accessible information is of primary importance for legal deposit collections. The concept of legal deposit is evolving from decade to decade as many factors continue to influence it. Among the challenges facing legal deposit libraries is the problem of publishers failing to comply with legal deposit requirements.

This study investigated the problems and constraints experienced by publishers in KwaZulu-Natal concerning legal deposit. Thirty five publishers were surveyed by means of a self-administered questionnaire which utilized both open and closed questions.

The results of the study reveal that while the vast majority of publishers in KwaZulu-Natal are compliant with legal deposit requirements, they do experience a number of problems while doing so. These problems include financial costs and time constraints while a lack of knowledge about certain aspects of legal deposit on the part of the publishers was evident.

Recommendations, which would require participation from all the stakeholders, to address the problems identified were made. The study concluded with suggestions for further research.

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I would finally give praises to the most important, my heavenly father for allowing his son Jesus Christ to give me strength to work hard at times when circumstances were above me.

DEDICATION

This work is dedicated to the following in my family

- ✎ I would like to dedicate this thesis to my precious sister, Rose Joanna Tibane, who passed away in July 2002. May her soul rest in peace.
- ✎ My fiancée, Phendukile Ndimande, for her support and understanding.
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LIST OF ACRONYMS

CD-ROM	Compact Disk Read Only Memory
IFLA	International Federation of Library Associations and Institutions
ISBN	International Standard Bibliographic Number
KZN	KwaZulu-Natal
LDC	Legal Deposit Committee
NLSA	National Library of South Africa
ODL	Official Deposit Library
PASA	Publishers Association of South Africa
UAP	Universal Availability of Publications
UBC	Universal Bibliographic Control
UNESCO	United Nations' Educational, Scientific and Cultural Organization

CHAPTER ONE: INTRODUCTION

1.1 Introduction

In this chapter the definition and the purpose of legal deposit will be briefly outlined. The background to the study will then be given and this will be followed by a discussion of the benefits of legal deposit. The research problem will be discussed. The remainder of the chapter will cover the research objectives and questions, the justification for and limitations of the study and, finally, the definition of terms.

1.2 Definition and purpose of legal deposit

Legal deposit can be defined as a government provision that compels producers of all types of publications to deposit a certain number of copies of each publication in designated libraries (Willemse, 1963: 4). The main purpose of legal deposit is to bring together, in an Official Deposit Library (ODL), a comprehensive collection of at least one copy of every work published in a given country. Thus legal deposit is aimed at collecting, storing and making available for the future the sum total of the intellectual and cultural heritage of a nation (White, 1986: 2).

1.3 Background of the study

The principle of legal deposit dates from 1537 in France when King Francois I implemented the legal deposit system for the first time. According to the International Federation of Library Associations and Institutions (IFLA), King Francois I issued the so-called “Ordonnance de Montpellier” which was the first decree forbidding the sale of any book without a copy having being first deposited in the library of his castle (IFLANET, 2002: 2). The main aim of the King was to collect the current and the future production of all editions of books in order to ensure the knowledge contained therein was available for future reference. According to historians, despite its official and royal character, the decree was not well respected, but the principle was established and would be used in other countries (IFLANET, 2002: 2).

Even though the initial purpose of legal deposit was to preserve the collection of publications, it was later also used as a surveillance tool, a requirement for obtaining trade privileges and a means of censorship. During the history of legal deposit, requirements and objectives evolved and legal texts were amended to adapt the legal deposit system to the development of new means and types of publishing. In recent years many countries have been examining their legislation in order to address the issues raised by electronic publications (IFLANET, 2002: 3). Given the incredible complexity of legal, organizational, technical and operational aspects related to the implementation of a legal deposit scheme for electronic publications, these issues represent the biggest challenge that legal deposit has ever had to face. Already countries such as France, Norway, Denmark, Finland and South Africa are acquiring, recording and preserving online materials (Collyns, 1987: 122).

Legal deposit is a statutory obligation that requires any organization, commercial or public, and any individual producing any type of documentation in multi-copies to deposit one or more copies with recognized national institutions. According to IFLANET (2002: 3) it is important that legal deposit covers all the publication types. In some countries the measure requiring legal deposit appears in a Legal Deposit Act. These countries include France, Greece, Indonesia, Norway, Peru, South Africa and Sweden (IFLANET, 2002: 3). In other countries the deposit legislation is part of another Act such as a Copyright Act. Examples of such countries include Australia, Great Britain, United States, Canada, Japan, Nigeria and Venezuela (Ilomaki, 2003: 5).

Behrens (1988: 22) maintains that the development of the national deposit collection of published material has to rely on a legislative foundation to ensure that all publishers comply with the requirements and that the legislation, to be taken seriously by publishers, has to be enforceable. According to Behrens (1988: 23) strategies need to be implemented to enforce publishers to deposit to the ODLs. Behrens (1988: 23) highlights the role of national libraries in preserving the legal deposit material as the ODLs in the country and points to the legal deposit system as the only way by which national libraries can freely

obtain copies of publications from all publishers in an attempt to collect and preserve those publications as specified by the United Nations' Educational, Scientific and Cultural Organization (UNESCO) Law of Universal Bibliographic Control (UBC) (Behrens, 1988: 24).

In South Africa legal deposit was introduced for the first time in 1916, when Parliament took over the British Copyright Act with slight amendments. According to Willemse (1963: 4) this Act gave no explanation of the purpose of legal deposit, which was envisaged. During 1916 The Natal Society Library (then known as the Library of the Natal Society) in Pietermaritzburg was for the first time granted legal deposit status. The Natal Society Library was then regarded as a national institution. At the time there were three deposit libraries excluding Natal Society Library, these being the Bloemfontein Public Library, State Library (Pretoria) and South African Library (Cape Town). In 1920 the privilege of being a deposit library gave rise to a problem. According to Willemse (1963: 77) the number of copies of all books published in South Africa and deposited in the various legal deposit libraries started to increase steadily and the Natal Society and Bloemfontein Public Libraries ran out of storage space for shelving. In 1923 the Union Government promulgated legislation in respect of financing State-aided institutions (of which the Natal Society Library was one). The Government decided to withdraw the grant the same year for the Natal Society Library on the grounds that the library fulfilled identical functions to the South African Library (Cape Town) and the State Library (Pretoria), and had statutory duties imposed upon it by the Copyright Act, a fact alone which should have secured financial recognition. Natal Society Library battled throughout its existence to cope with financial constraints. It never ceased to be an ODL (Willemse, 1963: 72).

The small financial contributions to the Natal Society and Bloemfontein Public Libraries were thus discontinued in 1923 and it was a long time before the Provincial Administration assumed the responsibility of financing these libraries by making allocations towards maintenance of their legal deposit collections.

According to Willemse (1963: 78) the annual reports of the South African Public Library threw very little light on the subject of legal deposit, and no annual reports could be obtained from either Natal Society or Bloemfontein Public Libraries.

The period between 1928 and 1949 according to Willemse was extremely important in South Africa's library development. There were four libraries, one in each province, each receiving one free copy of every publication issued in South Africa. Of these libraries, only the South African Public Library (Cape Town) and State Library (Pretoria) received a certain amount of financial support from the government. In 1950 the Library of Parliament was also granted the legal deposit privilege (Willemse, 1963: 17).

By the 1950's the purpose and functions of legal deposit in South Africa had still not been clearly formulated. The Government had no conception of what the granting of legal deposit privileges implied. Willemse (1963: 84) points out that the libraries had apparently not been consulted in terms of funding and were not receiving any additional financial aid. Willemse (1963: 18) highlights the difficulty of determining the extent to which the libraries were themselves at fault in terms of financial mismanagement. According to the meagre information available, it appears, however that very little attention was given to legal deposit matters, until later in 1948 when the Provincial Administrations began granting funds to legal deposit.

Willemse (1963: 19) also states that since there were no clearly defined objectives of legal deposit in South Africa, each library went ahead on its own, without co-ordination with other deposit libraries. In the late 1940s, the South African Public Library and the State Library were becoming national preservation collections, similar to those found in overseas countries. Due to insufficient storage areas the Natal Society and the Bloemfontein Public Libraries considered putting some of their legal deposit material into circulation. Willemse (1963: 19) reports that this was due, firstly, to a lack of a defined and accepted conception

of the functions of legal deposit; and secondly, to a lack of sufficient funding for carrying out the functions that would ensure the survival of the libraries.

The lack of sufficient funding was the main reason for poor facilities and services as recorded in the annual report of Natal Society Library for 1949. Furthermore, the problem of classifying and keeping the material for reference purposes required staff and space, which were not easy to find due to a lack of financial support. There were difficulties in getting outside sources and sponsors to help contribute financially to carry out these duties (Willemse, 1963: 19).

The legal deposit libraries in South Africa were heavily burdened by the unsolicited moral obligations of the Act of 1916, imposed upon them by a Parliament which did not ensure that these libraries would be able, or were in a financial position to fulfill, those obligations (Willemse, 1963: 20).

1.4 Benefits of legal deposit

According to the South African Legal Deposit Act of 1997 (South Africa. Legal Deposit Act, 1997) (referred to from this point onwards as the Act), legal deposit is not only important to preserve the heritage for both future scholars and the public but also to be accessed in the present. Legal deposit makes it possible for all citizens to have access to all published material from their country. Legal deposit enables a country to record everything that it has published in compliance with the UNESCO/IFLA Programme of Universal Bibliographic Control (UBC). Secondly, legal deposit ensures that at least one copy of everything published in the country is preserved and can be made available through loan or copies to any scholar who needs to consult it, anywhere in the world. According to Harrison (1995: 40) this is in compliance with the UNESCO/IFLA Programme of Universal Availability of Publications (UAP). In addition, legal deposit also forms the basis for the compilation of national bibliographies and other databases that alert potential users worldwide to the existence of books and documents, thereby promoting their distribution and sales (South Africa. Legal Deposit Act, 1997).

The situation changed in 1997 with the promulgation of the Legal Deposit Act, and the formation of the Legal Deposit Committee. The latter began to ensure that ODLs have good and healthy working conditions, sufficient trained staff, and that funding and grants were available whenever needed. It was recognized that deposit libraries needed to be spacious and to be equipped with all the latest technologies, which would facilitate better and quality services to South Africa (Legal Deposit Committee..., 2002).

Legal deposit in South Africa, as is the case in other countries, has an important preservation function for local publications. It also allows for storage and ensures availability, the future of the intellectual and cultural heritage of the country, and free access to all documents received (McCormick, 1999: 4).

In South Africa, libraries that are designated as legal deposit libraries are:

- ✎ The City Library Services, Bloemfontein;
- ✎ The Library of Parliament, Cape Town;
- ✎ The Natal Society Library, Pietermaritzburg (now called Msunduzi Municipal Library);
- ✎ The National Library of South Africa (NLSA), Cape Town Division (formerly the South African Library);
- ✎ The National Library of South Africa (NLSA), Pretoria Division (formerly the State Library);
- ✎ The National Film, Video and Sound Archives, Pretoria; and
- ✎ Any Library or Institution prescribed by the Minister for purposes of certain prescribed categories of documents (South Africa. Legal Deposit Act, 1997).

According to Fouche and James (1999: 3) the Department of Arts, Culture, Science and Technology was responsible for administering the functions of legal deposit in South Africa by regulating the Legal Deposit Act. There are several bodies which are directly or indirectly affected by the Act. These include:

1. Legal deposit libraries
2. Commercial, private and government publishers
3. Libraries and information services, and
4. The National Information Technology Forum.

1.5 Research problem

The main objective of the Legal Deposit Committee (LDC) is to coordinate and promote the implementation of the Act by holding meetings where they plan, review, monitor, strategize and also hold the ODLs accountable. Reports are then made to the Minister in the national Parliament of South Africa. Recently, the LDC has observed that not all published material is deposited in the ODLs as required by the Act and this undermines the value of legal deposit in the country (Legal Deposit Committee, 2002). The Legal Deposit Committee's observation is supported by Morrison (2002), the Director of the then Natal Society Library (an ODL). The Committee has observed that these failures to comply with legal deposit will lead to much valuable information being lost and perhaps becoming inaccessible to the public. These failures to comply may well be a consequence of the fact that publishers themselves also face difficulties (constraints) in meeting the legal deposit requirements.

It is this reported problem of publishers failing to comply with the Act which formed the focus of the study. This problem led to the research purpose below.

1.6 Research purpose

The purpose of the study was to investigate the problems and constraints that publishers in KwaZulu-Natal experience when required to comply with legal deposit as stated by the Legal Deposit Act (1997).

1.7 Research objectives

The above purpose led to the following research objectives:

1. To establish which publishers comply with the Legal Deposit Act and which do not.
2. To determine what types of print material are published.
3. To establish the reasons why publishers fail to deposit.
4. To determine the problems publishers face in terms of complying with the Legal Deposit Act (1997).
5. To make recommendations based on the findings.

1.8 Research questions

The above objectives led to the following research questions:

1. Which publishers comply with the Legal Deposit Act and which do not?
2. What types of print material are published?
3. Why do publishers fail to deposit?
4. What are the problems publishers face in terms of complying with the Legal Deposit Act (1997)?
5. What recommendations can be made based on the findings?

1.9 Justification for the study

- The study should benefit the legal deposit libraries of South Africa by increasing the awareness of legal deposit requirements within the publishing community.
- The study should assist the Legal Deposit Committee to identify problems which publishers face regarding the Legal Deposit Act and these problems faced by publishers can then be dealt with by the Legal Deposit Committee.
- The study should assist researchers and people in general to understand issues surrounding legal deposit in South Africa.

1.10 Scope and limitations of the study

- According to the Legal Deposit Act, 1997 published material includes electronic material, audiovisual material and grey literature, but for the purpose of this study

only printed publications with or without ISBNs (International Standard Bibliographic Numbers) were considered.

- ✎ The study focused on the period from 1997, the year in which the Legal Deposit Act was promulgated.
- ✎ The study was limited to publishers in KwaZulu-Natal (KZN) Province.

1.11 Definitions of terms used in the study

For the purpose of the study, the following key terms are defined:

- ✎ **Exemption** – The state whereby a publisher is allowed by the Minister not to deposit a particular work due to certain hindrances, for example, the cost of a book is too expensive to deposit it free of charge (South Africa. Legal Deposit Act, 1997).
- ✎ **Legal deposit** – Jasion (1991: 3) described legal deposit as a government provision, which compels producers of all types of publications to deposit a certain number of copies of each publication in designated libraries or similar institutions. Legal deposit therefore refers to any material published in a country, which, by the law of the country, is subject to be freely submitted to places of legal deposit. This study will focus only on paper based published material (print). The scope of print material includes published books, newspapers, magazines, grey literature and pamphlets.
- ✎ **Legal Deposit Committee (LDC)** - this is the body that is appointed by the Minister of Arts and Culture to facilitate, coordinate and organize all activities and issues pertaining to legal deposit in South Africa. The Committee liaises with all concerned libraries with legal deposit status (ODLs), together with the national libraries pertaining to all legal deposit cases. In addition, the Committee strategizes ways of functioning, and enforcing the law for all concerned parties, such as publishers and ODLs. The committee holds the right to establish subcommittees or

working groups, when necessary, to investigate any matter dealt with in the Act and to execute any task relating to the implementation of this Act, and to co-opt persons to such a subcommittee for the duration of the investigation. The committee is empowered to make recommendations to the Minister concerning any regulations which the Minister may make under the Act (South Africa. Legal Deposit Act, 1997).

The Legal Deposit Committee is represented as follows:

1. The heads of places of legal deposit;
2. The head of the Government Printing Works;
3. One representative for all the provincial official publications depositories;
4. Two representatives of the publishing industry;
5. And at most, four additional members (South Africa. Legal Deposit Act, 1997).

- ❧ **Official Deposit Libraries (ODLs)** - This refers to the libraries designated for the tasks of receiving, storing, accessing, cataloging, retaining and preserving, inventorising and ensuring freedom of access by the public to documents collected. According to the Act of 1997, there are five places of legal deposit in South Africa. This includes the National Library of South Africa, the Cape Town and Pretoria divisions.
- ❧ **Partial relief/compensation** – The state whereby a publisher recovers part of the item cost price from the Legal Deposit Library. To be granted this compensation the publisher is required to apply prior to depositing the published material (South Africa. Legal Deposit Act, 1997).
- ❧ **Printed or print material** - print material refers to any material that is tangible rather than electronic. Print material can be in the form of books, newspapers, grey literature and pamphlets. For the purpose of this study print material refers to books, newspapers and magazines (South Africa. Legal Deposit Act, 1997).

➤ **Publishers** - Publishers are all bodies, institutes, organizations and companies that are responsible for publishing, issuing and releasing their publications to the public whether the material is official or not, and regardless of whether the body is registered with the Publishers Association of South Africa (PASA) or not. These publishers are subject to the Legal Deposit Act; that is, they are compelled by the legislation to deposit published material in designated libraries for the purpose of the collection and preservation of material and ensuring its freedom of access to the public (South Africa. Legal Deposit Act, 1997).

1.12 Summary

In this introductory chapter, the problem, which concerns the study, was articulated. The purpose, objectives, research questions, the justification, scope and limitations of the study were described. The definitions of the terminology used in the study were also given.

1.13 Structure of the remainder of the study

In Chapter Two, literature relevant to the study will be reviewed and Chapter Three describes and discusses the research method applied. Results are presented in Chapter Four and discussed in Chapter Five. The final chapter, Chapter Six, comprises the conclusions, recommendations and suggestions for future research. The appendices are attached after the list of references.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

Blaxter (1996: 155) defines the literature review as an integrated summary of all available literature relevant to a particular research question. In order to conceive the research topic in a way that permits a clear formulation of the problem, some background information is necessary. This is obtained mainly by reading whatever information is relevant to the research topic.

According to Aitchison (1998), the relevant search for information from any media enables the researcher to find out what other researchers have discovered and those results can be of great value to the current study under investigation. To add, Gay (1976: 27) emphasizes this point by stating that the quality of results and the interpretation of findings lie in the knowledge acquired from other cited literature sources consulted before the current investigated study.

The findings from similar and related studies conducted by other colleagues, which provide one with the basis for the study are important to consider. Searches from sources such as the Internet and literature were incorporated into the study for discussion and argument purposes. It is thus very easy to come to conclusions and perhaps even to recommend with confidence the results in the light that others have also come to the same conclusions. The literature review thus reveals the possible recommendations that can be linked to the current study (Gay 1976: 23).

The literature review of this study will examine legal deposit and its practice in countries such as Sweden, Finland, Netherlands, Ireland and Britain, which were amongst the first countries to establish the legal deposit practice. The South African situation, described in the previous chapter, will also be referred to. However, the chapter will begin with a brief explanation of the requirements of legal deposit.

2.2. Four requirements for legal deposit

Jasion (1991:3) derives four requirements for legal deposit:

- ✎ Exhaustiveness
- ✎ Preservation
- ✎ Information
- ✎ Access

a. Exhaustiveness

The term implies that all published information should be deposited regardless of subject, format or producer. This means that materials such as audiovisual materials, patents and government publications, which are excluded from legal deposit in some countries, should be included. It also means that information carriers, such as the broadcast media and electronic publications, should not be overlooked (Jasion, 1991: 9).

b. Preservation

The term refers to the precondition of guaranteed public access. Few legal deposit acts stipulate that legal deposit material must be retained and preserved. Willemse (1963: 2-3) clearly points out that, although legal deposit legislation does not usually specify that deposited material should be preserved in perpetuity, it is often regarded as a moral responsibility to retain everything that is delivered.

c. Information

The term implies information about deposited materials must be made known by listing them in the national bibliographies or the catalogues of legal deposit libraries. Few legal deposit laws stipulate that all deposited materials must be catalogued (Jasion, 1991: 10). It is interesting to note that South Africa's Legal Deposit Act, 1997 requires the National Library (Pretoria Division) to complete and publish a bibliography of publications supplied on legal deposit.

d. Access

Few legal deposit acts stipulate that the public has a right of access to the legal deposit collection. Such statements tend rather to be found in the act establishing the legal deposit library. Some legal deposit libraries charge fees or refuse admittance to certain members of the public (Jasion, 1991: 4). However Manzoni (1994: 82) points out that public access is central to the purpose of legal deposit.

The working and enforcement of legal deposit legislation must reconcile, in a balance that is appropriate to each country's situation, and follow the requirements that Jasion (1991: 4) has identified.

2.3 Legal deposit legislation

Jasion (1991: 18-31) lists 139 countries, which have some or other form of legal deposit. Out of these, 111 (80%) have a legal deposit law. Jasion's book allows one to gain an overview of the main issues that are dealt with in legal deposit legislation worldwide (Jasion, 1991: 7-31). These issues are described and discussed below.

2.4 Which institutions must receive legal deposit?

In most countries according to Crews (1988: 551) the national library is the main depository as it also has a role as the national archives responsible for the long-term preservation of material for future purposes. In 45% of listed countries there are two or more institutions, which have legal deposit status. In South Africa, as mentioned in Chapter One, there are five legal deposit libraries. All five are entitled to receive materials published in all South Africa's provinces. In countries with a federal type of constitution, there may be libraries, which receive only legal deposit material published in their state or province. The case may be different in other countries of a federal nature such as the United States, where most of the states have their own statutes applicable to materials published within their jurisdiction (Cornish, 1994: 342).

2.5 Who bears the cost?

Usually the publisher covers the legal deposit costs but, in some exceptional cases, the state provides full or partial relief (Jasion, 1991: 8). This raises the question of the costs of legal deposit to publishers and, indirectly, to authors, who usually receive royalties based upon the number of copies sold. In principle it is argued by Jasion (1991: 8) that publishers should regard the delivery of free legal deposit copies as an overhead for which provision should be made in determining the price for the book. This means that individuals, libraries and other parties purchasing the book between them pay for copies that are delivered free of charge to the legal deposit libraries. If thousands of copies were printed, the delivery of five copies to legal deposit libraries would have a negligible influence on the purchase price of the book. But if the print run is small, for example, less than a hundred copies, this cost element becomes more significant. The copies delivered on legal deposit also represent lost sales to the publishers concerned. On the other hand, publishers commonly distribute review copies of their books free of charge to the legal deposit libraries as they are ensuring that their products are brought to the attention of the reading public (Pinion, 1996: 14).

2.6 Material deposited

Each country according to Manzoni (1994: 82) will determine its particular objects in accordance with its own needs and circumstances. Doubtless, all will collect monographs. Some will not require deposit of equally obvious desiderata, such as periodicals, until the depository has the means to handle and accommodate such voluminous material. Some will collect items which others may regard inappropriate either for national collection or for a national bibliography (Manzoni, 1994: 82).

Jasion (1991: 3-4) points out that certain countries require delivery of such matter as stamps, medals, orders, seals and banknotes. Others may regard these artifacts as suitable for a museum (where they are collected they may, in fact, be destined for a museum). Educational kits are borderline. They fall between textbooks, which belong in both the national library and the national bibliography, and educational toys, even alphabet blocks, which belong in a toy museum (Jasion, 1991: 3-4).

According to Smith (1999: 125) among the desiderata destined for its national collection, countries will doubtless give first priority to the traditional media of books and periodicals, including government publications. It may determine its subsequent priorities on the grounds of what is available and that which pertains to its national culture. Its national bibliography will follow the same pattern. A model deposit law should specify the categories about which there can scarcely be disagreement, but without excluding anything that a country might see fit to collect. A model deposit law should also take cognizance of needs of the national bibliography, noting the minimum requirements mentioned by the IFLA International Office for UBC, that is monographs and first, last and changed title issues of periodicals, and whatever other categories may be determined at a future date by further study (Smith, 1999: 125).

2.7 Components of a comprehensive legal deposit law

In brief, it is preferable for the legal deposit law to include the following aspects in order for it to be applicable in various situations. Jasion (1991: 8) suggests 12 aspects, which are:

- ✎ That the deposit law establish in principle its applicability to all publications in their widest definition;
- ✎ That the law name the categories of material which must be delivered automatically and make clear that all other categories not mentioned are also subject to deposit unless specifically excluded;
- ✎ That the law name the categories not to be deposited unless specifically requested, including, in this type of list, inappropriate material unlikely ever to be wanted, and types of material which the depository is not, at the time ready, to receive;
- ✎ That the law should be framed so that the changes in detail, such as transfer from the list of exclusions to the list of inclusions, can be made more easily than by a process of referring the statute back to legislature for amendment;
- ✎ That the law permit the selection for deposit of certain titles within categories which as a whole are excluded;
- ✎ That the law contain provisions for compensating, or at least limiting the cost to

depositors of materials such as deluxe editions, microforms and small editions;

- ✎ That trivia and ephemera might be more effectively dealt with by accepting delivery of all short texts and discarding unwanted material than by specifying a minimum number of pages for deposit.
- ✎ That off-prints be excluded as being unnecessary duplication save in exceptional circumstances, such as being part of a series;
- ✎ That editions which vary in form but not in content be fully subject to deposit as new works are;
- ✎ That each country determine which categories of material it most desires for national collection and specifies the objects of deposit accordingly;
- ✎ That all countries take cognizance of UBC and require deposit of at least monographs and first issues of periodicals, listing these in its national bibliography;
- ✎ That all countries do their utmost to expand the scope of their national bibliographies and require deposit of such additional material as may in future be deemed most necessary for UBC (Jasion, 1991: 8).

2.8 Number of copies deposited

Deposit laws vary widely with respect to the number of copies required for legal deposit purposes. Instances range from one copy to 18 copies. According to Shaw (1975: 140) the ODLs may use copies to stock other libraries and possibly for exchange. North Korea elicits two copies from the government. In these cases, the government publications may well be principally for exchange.

Davinson (1965: 32) states that legal deposit has been practiced in different ways in various countries. In the seventeenth and eighteenth centuries, in Britain there were nine deposit libraries, and according to the copyright Act of 1709, copies of publications were to be deposited in all nine libraries. In 1801 the Union Act of Ireland required 11 copies to be deposited in nine of the libraries, but in 1856 this was later reduced to five copies. In 1911 the figure of five copies was later changed to six in order to accommodate the National Library of Wales as a new legal deposit library (Lyon, 1997: 9).

Davinson (1965: 35) points out that publishers in many countries regard legal deposit as an unfavourable and unfair direct tax upon their enterprise. However, legal deposit is widely practiced by many countries and, in some countries, more than six copies are demanded. Legal deposit is not compulsory in all countries: in Switzerland for example, legal deposit is voluntary.

It is suggested by Jasion (1991: 9) that for reasons of economy of space and handling for the depository and in consideration of cost to the depositor that a practical number of copies is two. Two copies would suffice to allow the depository to lend one on interlibrary loan for the benefit of readers residing at a distance, while keeping the other for use on the premises under the immediate control of library staff. An exception to the general rule of two copies might be the requirement of only one copy of particularly costly publications. Very voluminous material for example, newspapers, might also be limited to one copy (Jasion, 1991: 9).

There is little justification according to Nweke (1991: 340) for exacting more than two copies. It has already been suggested that the national library should not be required to preserve everything deposited. Nor should it call for a third copy to be kept in a mausoleum of books to which no one has access, except a very few privileged persons and those members of the staff who are responsible for the entombment. Nor should a deposit law be used to stock other libraries at no expense to the public purse. It may be argued that building duplicate collections in other libraries increases the chances of survival of the national collection in case of destruction by fire or other means. In fact copies of important material are likely to be acquired by other libraries without the benefit of legal deposit. The deposit of multiple copies of government publications for exchange is a different case. This may be a very practical arrangement (Nweke, 1991: 340).

In some countries, the main depository is entitled to many copies, whereas, in several other countries, the number of copies is determined by the size of the print run or the cost of the

publication (Jasion, 1991: 12). In South Africa where one copy is required per institution regardless of the print run or the cost of publication, there are some exceptional cases, notably in respect of luxury editions of works also published in standard editions, in which case only one copy of the luxury edition should be deposited, in this instance to the now National Library of South Africa (Cape Town or Pretoria Division) (South Africa Department of National Education 1991: 7-8). Five copies are above average, but not in Portugal. In fact in Portugal the national library receives two copies and, in addition, deals with another twelve legal deposit copies for other Portuguese libraries, one of which is located in Brazil (Bell, 1992: 13).

In brief, it is suggested by Jasion (1991: 12) that, as a general rule, a deposit law should require not more than two copies. The reason being that publishers should not feel the burden of having to deposit more material which sometimes could be expensive to do so without compensation.

2.9 Time limit

The time allowed for deposit varies in present laws from pre-distribution to as much as nine months post publication. For example, Italy, Luxembourg and Russia specify delivery of copies before distribution or sale. The Swedish law directs that copies of books produced during every half calendar year are to be deposited within three months from the end of this period. The period most commonly quoted by most legal deposit laws is one month after publication (Edmondson, 1995: 25).

Jasion (1991: 8) states that the earlier the deposit the better; both to meet the expectations of users who assume that the national library is bound to have a copy of a national imprint upon publication, and to permit prompt listing in the national bibliography. Even if the national bibliography is published as infrequently as quarterly or yearly, the longer the delay in deposit, the greater the time lag before the appearance of the record in the bibliography. Jasion asserts that there is no valid reason for the delay in deposit by commercial publishers. Copies should be shipped before release date, as review copies may

be treated as the first of prepublication orders to be filled. It is suggested that delivery be required before publications are released for general distribution or sale (Jasion, 1991: 8).

It is recognized that many individuals and associations acting as their own publishers will contravene the regulation through ignorance. Latitude in imposing penalties can be allowed at the discretion of those responsible for enforcing the law (Willemse, 1963: 21).

The IFLANET (2002: 5) points out that, while in South Africa, there is a 14-day dispatch rule: that is the item must have been mailed or sent by any other means within that period, it is recommended that the deposit take place as soon as possible. IFLANET (2002: 5) suggests that the sooner the item is deposited the better, both to meet the needs of the users seeking new publications and to permit prompt listing in the national bibliography. In addition early deposit is that if some publications do go out of print quickly, any delay in depositing those publications could mean that material will not be available and collected for preservation. It is to be understood, though, that due to work overload and the 14-days dispatch period for deposit there may not be enough time to carry out legal deposit duties in time (Jasion, 1991: 5).

2.10 Accompanying information

It is essential that deposits be accompanied by information for ordering if such information is not to be found in the books themselves. This information should be included in the listing in the national bibliography. Details are needed according to Jasion (1991: 8) as to whether the publication is for free distribution, either general or limited, or for sale, and, if the latter, at what price, whether there are alternative editions, such as deluxe, school and paperbound, from whom and from what address the item may be acquired, and any additional special features (Jasion, 1991: 9).

2.11 Enforcement of legal deposit

There are many questions that Legal Deposit Committees ask themselves about finding methods that will enforce the practice to all publishers. Among the questions to be asked should be whether publishers would be able to comply or not. According to Edmondson

(1995: 26), legal deposit exists to serve a clear national interest; the preservation of all documentation, being now and in the future, the heritage of that country. Edmondson points out that most people do not see the difficulty from the publishers' point of view. In fact, few publishers ever argue against the law. Edmondson (1995: 26), states that compliance with legal deposit is near universal, if not always spontaneous, and research studies have shown that most publishers, when they are informed of legal deposit requirements, are happy to comply.

The second question that committees should ask themselves is why publishers would consider not complying with the legal deposit legislation. In theory what Edmondson (1995: 26) has highlighted is true but, in practice, it is not adhered to. In South Africa, for example, the reason why the researcher has undertaken the study, is due to the view that legal deposit libraries are not receiving all material published in the country.

Behrens (1988: 22) suggests that legal deposit has to be legislated in order to be enforceable to all publishers. She points out that the law has to be enforceable to be taken seriously by publishers and that the legal deposit system is the only system by which the legal deposit library can obtain publications free of charge.

Edmondson (1995: 26) suggests that before answering the question of whether the legislation is enforceable to publishers, people need to look at the practical administration of legal deposit in the publishing environment, and at some of the problems which are arising now in a small way but which may arise in future in a larger way. The following are reasons why publishers might not want to comply.

2.11.1 Inertia and ignorance

According to Dirnaichner (1995: 65) these are the main reasons currently for non-deposit: a publisher does not know of the requirement, or ignores the requirement. Libraries put a great deal of effort into legal deposit but unfortunately certain publishers do not adhere to the requirements of legal deposit. In the late 19th century focus was put on chasing up material produced by non-depositing publishers. The situation today is worse, given the

fact that anyone can now be a publisher, chasing up is going to become even more of a serious problem (Dirnaichner, 1995: 65).

Jasion (1991: 25) points to the inertia on the part of publishers noting that most publishers, even though they are aware of legal deposit, do not practice it on a regular basis, thus taking legal deposit law for granted to such an extent that the legal deposit libraries have to make more than one request for a particular deposit.

According to Jasion (1991: 18-31) deposit laws are less likely to have public support, especially when they are not widely understood or appreciated. Jasion (1991) argues that most publishers do not regard violation of the legal deposit law as a crime on the basis that they consider the law as being instituted to serve and guide the interests of the public.

Morris (1973: 3) points out that legal deposit rests and is founded on tradition from a long time ago, when authority and censorship saw its interest and duty being to avoid the spread of sedition and utterance of blasphemy. Morris highlights the difficulty of deposit by stating that the degree of enforcement varies from one country to another, but never without cost and difficulty to law enforcers and the cost of opposition from publishers. Bell (1977: 22-23) argues that the system of punishment for non-compliance is far from satisfactory in its results and introducing a system of rewards for compliance might perhaps be more fruitful. However, that does not guarantee that the legal deposit problems will be totally eradicated, as this method, the system of rewards, has been tried in other countries, but failed (Bell 1977: 23).

2.11.2 High costs of depositing

Henty (1996: 10) points out that publishers are required to deposit a copy of every new edition. There is a high marginal cost of depositing newly published editions of the same book that was deposited before due to the rise and the fluctuation of prices in the market. Depositing a copy of every new edition may be costly to the publisher if the government does not provide compensation.

Jasion (1991: 6) states that some publishers object to any deposit as an unjust imposition on them, in that the government requires them to deposit their expensive material free of charge. Most of the legal deposit legislation stipulates that the publishers should deliver their publications to the places of the legal deposit with the cost of delivery to be paid by the publisher. The majority of publishers complaining of the expenses of legal deposit are not aware of the exemption and compensation which is often available from the side of the government. These complaints are the consequences of inadequate communication between publishers and legal deposit libraries and again point to a lack of knowledge of legal deposit on the part of publishers. According to Morris (1973: 2-5), it can be argued that legal deposit expenses, whether great or small, are tax deductible as a business expense or, rather, can be recovered by increasing the selling price. Nevertheless, it is difficult for many publishers to understand why the government has a right to claim free merchandise from publishers, than it would have, for example, to demand free furniture for government offices from furniture manufacturers (Morris, 1973: 4).

2.11.3 Publications in legal depositories diminishing value of remaining copies

According to Edmondson (1995: 28) an example here would be, a high cost newsletter containing highly valuable information deposited in the Legal Deposit Library. Its presence in any library will diminish the value of the remaining copies from the publishers, because whoever read it is more likely not to purchase but rather photocopy interesting sections. Edmondson (1995: 29) points out that the deposited item is susceptible to illegal copying, or any copying, which may substantially diminish revenue from sales. This means that the more people duplicate the item by copying the less likely they would be to purchase the item.

According to Edmondson (1995: 28-30) the issue of public access to material is critical in legal deposit libraries, and most objections that publishers might have, could be overcome by restricting access to deposited publications if they feel that the content is perhaps confidential. This conflicts with the access role of legal deposit. Edmondson (1995: 30) points out, however, that some of the restrictions on access and copying will probably be critical in gaining acceptance from publishers.

The reasons stated above are considered legitimate concerns that may cause publishers not to comply with legal deposit legislation. Edmondson (1995) argues that these reasons may be solved if they are tackled strategically. According to Edmondson (1995) there are two simple steps to be taken in the process of solving most of the stated problems:

- ✎ Cooperation is critical. Edmondson (1995: 34) emphasizes that there is not a single institution that will achieve everything in terms of preventing all possible problems of legal deposit, and he suggests a need to establish a wider network of cooperative mechanisms, with other research libraries, cultural institutions and other stakeholders, who jointly may reduce the potential obstacles hindering better practice for legal deposit.
- ✎ The need to reframe the legislation so that it accommodates all the possible and potential situations. Edmondson (1995: 38) emphasizes the importance of working for a common approach with publishers, copyright owners and other parties.

2.11.4 Other issues of concern relating to legal deposit

a. Reformatting is critical for preservation

Edmondson (1995: 32) declares that newspapers and other less durable material should be reformatted, that is, valuable information in a newspaper is likely to be lost when the paper, which is the medium, wears out or when its quality is lost. This is a problem to publishers in that their publications in less durable materials may in the near future not be accepted for preservation unless they change to more durable forms. She mentions that the same has to be done with magnetic tape formats, which are far less durable than newsprint. There is, however, the problem that reformatting has the potential for major infringement of copyright, but without reformatting of some legal deposit materials, preservation is useless (Edmondson 1995: 32).

b. Format

The traditional role of legal deposit was focusing on paper-based material and therefore extending it to electronic publishing requires more attention. The scope of users varies from those who use traditional paper published documents to electronic orientated users. The traditional role continues unabated; in fact, print is continuing to grow, especially as more people today even in rural areas are becoming literate and thus the demand for information increases. Legal deposit has to satisfy the needs of both types of users by providing the information in a relevant format to the users.

c. Copyright problems

Copyright is currently a major impediment to publishers, in that most people may even prefer electronic publishing, because it is much more expensive to produce print material than simply availing it in an electronic format (PASA 2000: 1). Unlike printed material, Jasion (1991: 7) states that information on the electronic media can be easily prevented from copyright infringement by requiring a subscription in order to access the information. Again this raises the issue of access versus preservation. Preservation without access is likely to be far less acceptable as the primary role for preserved material. Preserved material should be available and easily accessible to people for any information they need (Edmondson, 1995: 33).

2.12 Summary

In this chapter the four requirements for legal deposit practice were outlined. The bulk of the chapter consisted of a discussion of major issues relating to legal deposit practice including the number of copies of items deposited and the associated costs of doing so. It is evident that publishers face a number of challenges in complying with legal deposit requirements. The following chapter describes and discusses the research method adopted for the study.

CHAPTER THREE: RESEARCH METHOD

3.1 Introduction

In this chapter, the research method chosen to investigate the problems and constraints of publishers surrounding legal deposit in KwaZulu-Natal is described and discussed.

3.2 Choice of method

The study required the use and application of the survey method to collect information from the intended population. The nature of the research problem was the catalyst in determining the most suitable method of investigating the problem. According to White (1986: 43) a survey is a method of collecting information about a human population in which direct contact is made with units of study through systematic methods such as questionnaires and interviews. In addition, Powell (1997: 21) defines a survey as a research strategy in which one collects data from one part of the population to assess the relative incidence, distribution, and interrelations of naturally occurring variables.

There are advantages associated with adopting a survey method. According to Babbie (2000: 87) a survey study is the best method available to social scientists interested in collecting original data for the purpose of describing populations that are very scattered or too large to be observed. White (1986: 12-24) states that surveys are also important in measuring attitudes and orientations prevalent within a large group. Peil (1982: 97) points out that in surveys, questions can be asked anonymously through questionnaires and this method allows a large population to be tested. Furthermore, by asking a large number of people the same question, including the background information of each respondent, it is possible to get a broad and reasonably accurate view of the response to certain issues, and to test theories on social relationships at both the individual and group levels. In addition Gay (1976) pointed out that using a survey has the advantage of allowing comparisons and showing relationship patterns pertinent in the results of the study.

According to Powell (1997: 58) survey research is better suited to studying, exploring and analyzing relationships among a geographically dispersed population. In terms of the present study the survey was considered suitable for the study of publishers who were geographically dispersed around the KwaZulu-Natal Province.

3.3 Data collection technique

The self-administered questionnaire was the technique used to collect information from the population of the study.

3.3.1 The self administered questionnaire

Welman and Kruger (2001) point out that the self-administered questionnaire has many advantages over other data collecting techniques in that:

- It is easy to apply
- It is inexpensive to administer
- A large coverage of the population can be realized with little time or cost
- There is a high level of anonymity.

The self-administered questionnaire saves time and money on the side of the researcher in that he/she does not have to be there when the respondents are attending to the questionnaire. Nevertheless, questionnaires do have problems like delays in that it takes time for the mail to reach the intended recipient; respondents are unlikely to respond and reminders are necessary. Further, one needs to have a population or sample of sufficient numbers so, even if some do not respond, one can still attain a reasonable percentage of responses (Powell 1997: 52-59).

According to Bless and Higson-Smith (2000) the most obvious disadvantage is that the response rate can be low and respondents can poorly complete the questionnaire. In a developing country one may first have to consider the literacy level of the target audience before using a questionnaire. Illiteracy, however, was not a problem in this study as there is a general assumption that all publishers in South Africa are literate, to a greater or lesser degree, in English.

3.4 Population

Busha and Harter (1980: 55-57) define the word “population” as any group of people, objects or institutions that have at least one characteristic in common. In addition, De Vos (2002: 78) defines a population as a set of entities where all measurements of interest to the practitioner are well represented.

A number of features of the population in the present study are discussed and outlined below, including the size of the population, the professional body affiliated to and the type of material published.

3.4.1 Study population

The population in the study comprised publishers in KwaZulu-Natal who published print material such as books, and either newspapers or magazines. The following directories were used in identifying the publishers:

- ✎ *Publishers Association of South Africa Directory (PASA)* (Publishers Association of South Africa 2000: 1-50)
- ✎ *Directory of publishers in Southern Africa* (Media Institute of Southern Africa 1999: 1-20)
- ✎ *Online PASA* (Directory of Publishers Association of South Africa 2005)

There were 120 publishers identified from these directories. Out of the 120 only 40 publishers were traceable. The rest either no longer existed or had discontinued publishing. This was ascertained by the researcher after phoning those telephone numbers and by consulting the then Natal Society Library as noted earlier, an ODL, to confirm publishers' existence. These problems were observed by the researcher to be the main reasons for the reduction in population size. According to Powell (1997: 32) if the population size is small, the entire population can be studied without need for sampling. Thus all 40 publishers were included in the study. The questionnaires were mailed to thirty-three publishers, and seven were distributed by hand, since these publishers resided in the same area as the researcher.

A potential problem with a small population size is the possibility of a low response rate when using mailed questionnaires. Newell (1993: 96) agrees with the problems of low response rate in that they cause many problems since it is not easy to generalize on a small number of publishers' responses.

Out of 40 publishers, five did not respond leaving a total of 35 – a response rate of 87.5%. This was considered a very good response rate considering what has been mentioned by Newell (1993: 96) that a small population usually generates a low response rate.

3.5 Instrumentation

A six page, self-administered questionnaire (see Appendix 3) that consisted of both open and closed questions, was developed to find out the common problems and constraints relating to legal deposit experienced by the publishers in KwaZulu-Natal.

Dillman (2000: 32) states that the goal of administering a questionnaire is to develop a query that every potential respondent will interpret in the same way and be able to respond accurately, and be willing to answer. Powell (1990: 90) points out the fact that questionnaires must be structured in such a manner that data collected can be easily analyzed. The fixed format of the questionnaire according to Powell (1997: 91) facilitates uniformity and eliminates possible variations of responses.

3.5.1 Structure of questionnaire

The questionnaire comprised 21 questions of which the first five questions aimed to find out whether the respondents were aware of the Legal Deposit Act in the country. Respondents whose answer was “no” to question 4 and 5 did not need to continue answering the rest of the questionnaire in that the rest of the questions were based on the knowledge of legal deposit. Questions 6 to 9 were intended to establish the general importance of compliance and problems encountered in the process of depositing in legal deposit libraries. Questions 10 to 13 were more specific questions regarding legal deposit activities, such as the 14-day period, in which a publisher has to deposit any material with

the deposit libraries. Questions 6 to 13 represent the crux of the study because the publishers were asked to divulge the problems they encounter. Questions 14 to 20 covered aspects such as affiliation, representation and copyright. Question 21, the final question, requested publishers to voice whatever they felt was of great concern or pertinent to the fundamental practice of the Legal Deposit Act of South Africa.

3.5.1.1. Format of questions

According to Bless (1997: 119) there are two forms of questions open-ended and closed questions and both were used in the study.

3.5.1.1.1 Open-ended questions

Bless (1997: 118) describes open-ended questions as questions that leave the participants completely free to express their answers as they wish, and are as detailed and complex, or as long or as short as they feel is appropriate. No restrictions, guidelines, or suggestions for responses are given. Babbie (1998: 148) supports Bless in that with open-ended questions respondents are asked to provide their own answer to the question. In this study some questions were open-ended.

Newell (1993:102) points out the drawbacks of open questions to respondents and researchers. The former are required to spend time considering and recording an answer, and the latter might have to deal with responses that are ambiguous, wide ranging and difficult to analyze at times and take longer to codify. These latter points are also mentioned by Babbie (2001: 117) who warned that open-ended questions may be difficult to analyze in that respondents are allowed to use their own words, which may be difficult for the researcher to understand.

Bless (1997: 119) points out that because open-ended questions are not based on already conceived answers and ideas, they are thus recommended for exploratory studies, case studies, or studies based on the qualitative analysis of data.

3.5.1.1.2 Closed questions

Closed questions are restrictive in that the respondent has to choose from the given options. Newell (1993: 100-101) states that closed questions are drafted in advance, complete with all the possible answers that could be given. Advantages of closed questions are that they can be easily pre-coded and responses can easily be analyzed by computer. They are thus less time consuming for the respondent to complete. Babbie (2000: 148) points out that closed questions should have an exhaustive list of possible answers for a respondent to choose from. It goes without saying that the questions must be clear and unambiguous. An "other" option is usually provided, should the respondent want to suggest an option that is not listed. In this study closed questions were used to help channel the respondent to provide definite answers about the legal deposit practice.

3.5.2 Pre-testing the questionnaire

When conducting a study using questionnaires, pre-testing is important because it reveals ambiguities that can be corrected before the actual study is done. Powell (1997) emphasizes the importance of pre-testing the questionnaires before sending them to the population. According to Powell (1997) pre-testing allows a researcher to pick up loopholes and weaknesses in the instrument. Questions can be misunderstood or misinterpreted by respondents and will, if not corrected, jeopardize the findings of the study. Powell (1997) further states that pre-testing allows the preliminary testing of the hypothesis, points out unanticipated problems generated from administering the questionnaire, and at times even indicates that the final study may not produce any anticipated and meaningful results and thus should be completely revised or reworked.

Welman and Kruger (2001) state that it is mandatory to test the reliability and accuracy of survey questionnaires on a small group of individuals who are representative of a population. But if the instrument is extensively revised, then it must be subjected to the second round of testing. In this study an instrument was sent to three Gauteng-based publishers in September 2003 to verify and test the validity and reliability before distribution to the study population. The responses from the publishers revealed that one

question was not significant (this question was removed from the instrument) and a few minor changes and additions were incorporated in the final questionnaire to be administered.

3.5.3 Administering the questionnaire

The questionnaire (see Appendix 3) along with a covering letter from the supervisors (see Appendix 1) and one from the researcher (see Appendix 2) were mailed to the population of publishers on 2 November 2003.

The covering letters requested the co-operation of publishers and, also explained the purpose of the study and how it could benefit the publishing community in South Africa. The publishers were asked to return the questionnaire to the researcher by not later than 20 November 2003, using the provided self-stamped and addressed envelope. As noted, of the 40 questionnaires that were sent out, 35 responded, yielding an 87.5% response rate.

3.6 Data analysis

Babbie (2000: 137) states that once the data collection and checking have been completed, the researcher should begin the process of analyzing the data. The analysis is conducted so that the researcher can detect consistent patterns within the data, such as consistent covariance of two or more variables. According to Babbie (2000: 137) data analysis allows a researcher to generalize the findings from the sample used in the research, to the larger population in which the researcher is interested.

In the present study analysis of the data was done manually. Responses to open-ended questions were, where necessary, categorized and subsequently quantified. Data generated and analyzed was presented in the form of tables depicting frequencies and percentages (see Chapter Four).

3.7 Evaluation of applied method

When evaluating a particular research method issues of validity and reliability come to the fore.

3.7.1 Validity

According to Bell (1993: 104) validity is a complex concept with many variations and subdivisions and measuring its extent can be very involved. In essence validity “tells us whether an item measures or describes what it is supposed to measure or describe” (Bell, 1999: 104). There are many ways to ensuring validity (Cohen, Manion, Morrison, 2000: 116). As noted above, the instrument used in the present study was pretested on a group of publishers and, in order to ensure validity, questions were adjusted on the basis of the responses and comments received from this pretest. An effort was also made to ensure that the questions asked related closely to the objectives of the study. The validity referred to here is also called “content validity”. A second type of validity is “external validity” which “refers to the degree to which the results can be generalized to the wider population” (*Understanding research...*, 2004: 71). In terms of the present study it could be argued, given the very good response rate achieved, that the results can be generalized to publishers of print materials in KwaZulu-Natal. To what extent these results can be generalized to publishers in other provinces is debatable and any generalization to outside the province must be done with caution.

3.7.2 Reliability

Bless (2000: 126) defines reliability as concerned with the consistency of measures. An instrument which produces different scores each time it is used to measure an unchanging variable has low reliability. Comparing the results from pre-testing and the real tests indicate that the study is, to some extent, reliable. However, this cannot be the conclusion unless the method is tested many times and only then can its reliability be verified. According to Bless (2000: 126) the greater the consistency in the results, the greater the reliability of the measuring procedure. In reality, this is difficult to achieve since there are many sources of inconsistencies in social sciences.

For research to be reliable it must demonstrate that if it were carried out on a similar group of respondents in a similar context, then similar results will be found. According to one source (*Understanding Research...* 2004: 8) the concept applies more in experimental

research, when researchers would perform the same experiment over and over again, to ensure that the same results were achieved each time. Testing reliability in social science studies such as this one can be both difficult and costly. The researcher is of the opinion that there is nothing to suggest that the same results would not be obtained should the survey be repeated.

3.8 Summary

It is evident in research that collecting and gathering information using a reliable method is fundamental to discovering solutions to the problems facing publishers regarding legal deposit in KwaZulu-Natal. In this chapter, choice of method, data collection technique, population, instrumentation and the evaluation of the applied method were described and discussed.

CHAPTER FOUR: PRESENTATION OF RESULTS

4.1 Introduction

This chapter presents the results of the survey. The results, in the main, are presented in tabular format. The results are shown in the same sequence as the questions asked in the questionnaire. The results will form the basis of the discussion, conclusions and recommendations of the study in Chapter 5 and 6 respectively.

4.2 Presentation of Results

The results are presented below.

4.2.1 Demographic Information

Various demographic type questions were asked of publishers.

4.2.1.1 Names of publishers

Publishers were asked to state their names.

Table 1. Provision of name by publishers

Publishers	Frequency	Percentage (%)
Provided Names	30	85.7
Did not provide Names	5	14.3
Total	35	100

Table 1 above shows that 30 (85.7%) publishers did provide their names on the questionnaire as opposed to five (14.3%) who did not, as they wished to remain anonymous. The question was optional and not compulsory as stated on the questionnaire (see Appendix 3).

4.2.1.2 Number of years in existence

Respondents were asked how long their firms had been in existence.

Table 2. Number of years publishers in existence

No. of years	Responses	Frequency (%)
Less than 5 years	3	8.6
6-10	6	17.1
11-20	8	22.9
21-50	6	17.1
51-100	5	14.3
No response	7	20
Total	35	100

A majority, 19 (54.3%) of publishers have been in existence for more than 10 years. The number of “no” responses, seven (20%) was surprisingly high. Three (8.6%) publishers have been operating for less than five years.

4.2.2 Type of material published

The question was intended to establish the number and types of material published in various categories provided.

Table 3. Type of material published

Material	Publishers	Frequency (%)
Non-fiction	7	20
Fiction	9	25.7
Reference	13	37.1
Textbooks	12	34.3
Children's books	11	31.4
Periodicals/magazines/newspapers	12	34.3
Total	64*	232*

*Multiple responses given

Table 3 indicates that reference material was the most published format with 13 (37.1%) of the publishers surveyed doing so. Textbooks and periodicals were the second most published formats indicated by 12 (34.3%) publishers apiece. Non-fiction was the least published material with 7 (20%) publishers.

4.2.3 Publishers that deposit in legal deposit libraries

The publishers were asked whether they deposit material in the designated legal deposit libraries. The responses of the various publishers are given below:

Table 4. Publishers that deposit in legal deposit libraries

Deposit	Frequency	Percentage (%)
Yes	33	94.3
No	2	5.7
Total	35	100

The vast majority of publishers 33 (94.3%) stated that they complied with legal deposit requirements.

4.2.4 Publishers' awareness of Legal Deposit Act requirements

Question 5 was intended to establish whether publishers were aware of the Legal Deposit Act requirements.

Table 5. Publishers' awareness of Legal Deposit Act requirements

Awareness	Frequency	Percentage (%)
Yes	34	97
No	1	3
Total	35	100

The overwhelming majority 34 (97%) of respondents were aware of the Legal Deposit Act requirements.

4.2.5 Legal deposit serving its intended purposes

The preamble to the Legal Deposit Act was provided to the respondents who were asked whether the Legal Deposit Act was serving its intended purpose or not.

Table 6: Legal Deposit serving its intended purpose

Serving intended purpose	Frequency	Percentage (%)
Yes	33	94.3
No	2	5.7
Total	35	100

Of the respondents, 33 (94.3%) agreed that the legal deposit is serving its intended purposes of preservation and collection and making material accessible to the public. Only two respondents (5.7%) gave a negative response.

Respondents were then asked to elaborate on their response and nine did so.

- ✎ Six of the nine (66.7%) publishers stated that legal deposit is very important, in that it provides some form of preservation, retention and reference, thus ensuring that all publications of the country are recorded.
- ✎ Three (33.3%) respondents stated that, while agreeing with the intended purposes of legal deposit, they stressed that all publishers, in addition, need to comply with the legislation.

4.2.6 Instances of non-compliance with legal deposit

Question 6 was asked to establish if there were instances that caused publishers not to comply with legal deposit.

Table 7: Instances of not complying with legal deposit

Instances of non-compliance	Frequency	Percentage (%)
Yes	10	28.6
No	23	65.7
No response	2	5.7
Total	35	100

It is evident from Table 7 that 10 (28.6%) publishers had instances where they failed to deposit their publication in the designated Official Deposit Libraries. These publishers mentioned the following reasons for not complying with legal deposit:

- ✎ Lack of knowledge (3 responses)
- ✎ Lack of accountability to legal deposit (2 responses)
- ✎ Their companies publishing volume did not allow time for deposit (3 responses)
- ✎ Non-availability of required forms plus time factor restrained them from submitting material before deadlines (within required time frame) (2 responses)

4.2.7 Instances where legal deposit compliance is considered unnecessary

Question 7 was asked to establish if publishers had instances where legal deposit compliance was considered unnecessary. Publishers were then asked to state those instances.

Table 8. Instances where legal deposit compliance is considered unnecessary

Instances where compliance unnecessary	Frequency	Percentage (%)
Yes	5	14.3
No	25	71.4
No response	5	14.3
Total	35	100

The majority of publishers 25 (71.4%) stated that there were no instances where they would consider it unnecessary to comply with the practice unless these were stated by the Legal Deposit Act.

However five (14.3%) publishers stated that there may be instances under which they may consider depositing unnecessary. These instances were:

- ⌘ When they are not familiar with the legal deposit practice (2 responses).
- ⌘ Material aimed for promotional purposes, samples and ephemerals, which are of low value and not considered important for deposit (3 responses).

4.2.8 Problems experienced by publishers in terms of complying with the Legal Deposit Act

An open question (question 8) was asked concerning whether publishers experienced problems in terms of complying with the Legal Deposit Act.

Responses from the publishers are given below.

Table 9. Problems experienced by publishers in terms of complying with the Legal Deposit Act

Problems experienced	Frequency	Percentage (%)
Yes	24	68.6
No	7	20
No response	4	11.4
Total	35	100

The response to this question was central to the study and will constitute much of the discussion, as one of the objectives was to identify problems and constraints surrounding legal deposit experienced by publishers.

Seven (20%) of the respondents reported no problems from their point of view.

The majority of publishers, 24 (68%) indicated that they did experience problems. The problems mentioned by the publishers were as follows:

- ✎ Delivery, mail and postage - some complained that it was costing them too much to deliver to the various ODLs as well as to pay for each and every item deposited (15 publishers).
- ✎ Depositing expensive books without government compensation as stated in the Legal Deposit Act, 1997 (12 publishers).
- ✎ Time constraints - there is insufficient time to fill in the accompanying forms (7 publishers).
- ✎ Lack of knowledge of the law (4 publishers).
- ✎ Lack of information and clarity of instruction from the Legal Deposit Committee (3 publishers).
- ✎ Too many copies to deposit - the depositing of five copies of each item, instead of depositing one copy to the nearest Legal Deposit Library (2 publishers).
- ✎ Laziness – they were too lazy to take a pen and complete the required forms and then submit to the ODL (2 publishers).
- ✎ Time and financial costs involved in depositing a new edition of a work (2 publishers).

The major problems identified by publishers included cost of delivery, time, lack of financial compensation and, finally, a lack of knowledge of the law.

It is interesting to note that seven publishers referred to other publishers having contempt for the law whereby they were not adhering to the legal deposit requirement, and they had not been prosecuted. These publishers stated that many publishers need to have their attention drawn to the legal requirements of the Legal Deposit Act on a regular basis. If this is not done, they tend not to implement it. In addition two of these publishers indicated that

there is growth in the number of publishers who were not complying with the legal deposit requirements and by doing so were tarnishing the entire publishing industry.

4.2.9 Specific problems

Respondents were then asked to respond to a list of specific problems provided. The results are given below.

4.2.9.1 Cost of complying with legal deposit regulations per annum

Question 9 was intended to establish how much publishers were spending in order to comply with legal deposit law. Their responses are given in Table 10 below.

Table 10. Cost of complying with legal deposit regulations per annum

Cost	Frequency	Percentage (%)
> R1000	7	20
Not sure	17	48.6
No response	11	31.4
Total	35	100

Table 10 shows that 17 (48.6%) publishers were not sure of the total amount they spent on legal deposit.

Eleven (31.4%) of the publishers did not respond to this question.

4.2.9.2 Complying with the 14-day period for depositing material

The question was intended to establish whether publishers were finding it a problem to deposit within the 14-day dispatch period as stipulated by the Act.

Table 11. Problems complying with the 14-day period for depositing material

Problems with compliance	Frequency	Percentage (%)
No	25	71.4
Yes	7	20
No response	3	8.6
Total	35	100

The majority of respondents 25 (71.4%) claimed to have no problems with the 14-day deposit system. Seven (20%) respondents indicated that they were encountering problems with complying with the 14-day period allowed for depositing.

Seven respondents who were encountering problems elaborated and their responses are as follows:

- Four publishers pointed to the fact that they were non-profit, reliant on donor funding and therefore employed few staff members.
- Three publishers indicated that they did not have sufficient time to complete and submit forms.

4.2.9.3 Awareness of applying for exemption from legal deposit requirements

Question 11a was intended to establish whether publishers were aware that in some instances, publishers might apply for an exemption from depositing particular material.

Table 12. Awareness of applying for exemption from legal deposit requirements

Awareness	Frequency	Percentage (%)
Yes	10	28.6
No	24	68.6
No response	1	2.8
Total	35	100

From Table 12 it is apparent that only 10 (28.6%) publishers were aware of the right to apply for an exemption as stated by the Legal Deposit Act. The majority, 24 (68%) publishers were not aware and thus did not apply for exemption.

4.2.9.4 Applying for an exemption

Question 11b was intended to establish if publishers did have instances where they had applied for exemption.

Table 13. Applying for exemption

Application for exemption	Frequency	Percentage (%)
Yes	6	60
No	3	30
No response	1	10
Total	10	100

Six of the 10 respondents who were aware of being able to apply for an exemption had actually done so.

4.2.9.5 Number of legal deposit libraries

Question 12 was intended to establish whether publishers considered the number of five designated legal deposit libraries in South Africa as too many.

Table 14. Number of legal deposit libraries

Considered too many	Frequency	Percentage (%)
Yes	4	11.4
No	29	82.9
No response	2	5.7
Total	35	100

Of the 35 publishers surveyed 29 (82.9%) answered 'no' to the question; thus they did not consider the number of legal deposit libraries too many. The four publishers who considered the number of libraries too many were asked what number they considered more suitable and why.

Responses given were as follows:

- ✎ All four publishers pointed out that they were dissatisfied about the requirement to deposit five of each copy published rather than to deposit one and have the government duplicate or pay for the other 4 copies.
- ✎ Interestingly, two publishers who did not consider the number of legal deposit too many stated that they would recommend that the government should increase the number of legal deposit libraries by ensuring that each and every province has its own. They said that this would facilitate and promote the access of stock to the public.

4.2.10 Extent of agreement with two main principles of legal deposit.

Question 13 was intended to establish to what extent publishers agree with the principles of legal deposit. Responses are tabulated in Table 15 below.

Table 15. Extent of agreement with principles of legal deposit

Principles	(Strongly agree) A	(Agree) B	(Disagree) C	(Strongly Disagree) D	(Do not Know) E	Total
Collect and preserve material	28 (80%)	0	0	0	7 (20%)	35
Promote access to all people	24 (68.6)	0	0	0	11 (31.4%)	35

Table 15 indicates that the majority of publishers all strongly agreed with the two principles of legal deposit.

4.2.11 Membership of Publishers Association of South Africa (PASA)

Question 14 was intended to establish the number of publishers registered with PASA.

Table 16. Publishers membership with PASA

Membership	Frequency	Percentage (%)
Yes	8	22.9
No	23	65.7
No response	4	11.4
Total	35	100

The majority 23 (65.7%) of publishers were not registered with PASA. Four (11.4%) publishers did not respond to the question.

4.2.12 Publishers receiving PASA notification

A follow up question was asked to find out from the eight publishers who were members of PASA whether they received notifications from the organization.

Table 17. Receipt of PASA notifications

Receipt	Frequency (N)	Percentage (%)
Yes	4	50
No	2	25
No response	2	25
Total	8	100

Four (50%) of the eight publishers acknowledged that they were receiving PASA notifications from time to time when amendments and changes to the Legal Deposit Act were effected. In contrast to that, two (25%) of the four publishers who reported receiving PASA notifications complained that they were receiving them late.

4.2.13 Copyright contravention of legal deposit

Question 15 was intended to find out whether publishers think that copyright contravention of legal deposit material is an issue facing publishers in South Africa since legal deposit libraries promote access to all people.

Table 18. Publishers response to copyright contravention

Copyright contravention an issue	Frequency	Percentage (%)
Yes	21	60
No	6	17.1
No response	8	22.9
Total	35	100

Table 18 shows that a majority of publishers 21 (60%) considered copyright contravention of legal deposit material an issue.

Of the 21 publishers, six elaborated and these are the comments:

- ✎ Two of the six publishers pointed out that they lose out in the market and that should such people be found, drastic legal action should be taken. Publishers regard breaking of the Copyright Act as an offensive act, and they are prepared to prosecute offenders.
- ✎ Three publishers suggested that legal deposit libraries should make the public aware of the Copyright Act, than to be participants in contravention of the Act, as that is not beneficial to all of bodies in the business of books.
- ✎ One publisher recommended that PASA as a representative body of publishers should take the initiative to educate and teach all stakeholders about the Copyright Act. This publisher further elaborated that publishers collectively are calling for all information workers in any field of work to take cognizance of the Act. If they

reinforce the practice of law then they are on the right track to build the status and dignity of the publishers in country.

Of the six publishers who said that copyright contravention was not an issue three elaborated as follows:

- Two publishers felt that even though copyright contravention is not right, photocopying should not be forbidden because the majority of people who photocopy are students and students do not photocopy for resale. In essence they photocopy literally because they simply cannot afford to buy new books directly from the bookshops.
- One publisher stated that the decision rests with the legal deposit libraries to establish the reasons for photocopying.

4.2.14 An in-house archival system

Question 16 was intended to establish whether publishers do have their own in-house archival system. Responses are tabulated below.

Table 19. In-house archival system

Response	Frequency	Percentage (%)
Yes	31	88.6
No	4	11.4
Total	35	100

Thirty-one (88.6%) publishers reported that they have their own in-house archival system for their publications. When asked the reason why they had an in-house, twelve pointed out the necessity of not having to depend on the legal deposit only to access their stock especially for reference purposes. In contrast only four (11.4%) who stated that they do not have an archival system in place pointed out that they do not want to cause unnecessary duplication and occupy useful office space.

4.2.15 South Africa's legal deposit playing an archival role

Question 17 was intended to find out whether publishers regard South Africa's legal deposit system as playing an archival role for their publications.

Table 20. South Africa's legal deposit playing an archival role

Archival role	Frequency	Percentage (%)
Yes	32	91.4
No	2	5.7
No response	1	2.9
Total	35	100

The vast majority of publishers 32 (91.4%) reported that South Africa's legal deposit system does play an archival role for their publication.

4.2.16 Awareness of the existence of the Legal Deposit Committee

Question 18 was asked to establish whether publishers were aware of the existence of the Legal Deposit Committee.

Table 21. Awareness of existence of Legal Deposit Committee

Awareness of existence	Frequency	Percentage (%)
Yes	25	71.4
No	7	20
No response	3	8.6
Total	35	100

Table 21 shows that 25 (71.4%) respondents were aware of the existence of the Legal Deposit Committee. Seven (20%) publishers indicated that they were not aware of the Committee's existence.

4.2.17 Publishers representation on the Legal Deposit Committee

Question 19 was intended to establish whether publishers think that they have sufficient representation on the Legal Deposit Committee.

Table 22. Publishers' representation on the Legal Deposit Committee

Sufficient representation	Frequency	Percentage (%)
Yes	21	60
No	6	17.1
No response	8	22.9
Total	35	100

Twenty-one (60%) publishers felt that they had sufficient representation on the Legal Deposit Committee and six (17.1%) disagreed. When asked to elaborate, three of the six publishers did so. They pointed out that they did not even know who their representatives were on the Legal Deposit Committee.

4.2.18 Listing in the South African National Bibliography (SANB)

Question 20 was intended to establish if publishers were aware of the listing of their publications in the SANB.

Table 23. Publishers awareness of listing in the SANB

Awareness of listing in the SANB	Frequency	Percentage (%)
Yes	3	8.6
No	30	85.7
No response	2	5.7
Total	35	100

Table 23 indicates that the vast majority of publishers, 30 (85.7%), were not aware of the listing of their publications in the SANB.

4.2.19 Awareness of a positive impact on the sales of the SANB listed material

Question 21 was a follow up question asked of those who said, “Yes” in question 20.

The three respondents were asked in Question 21 whether they were aware of the listing in the SANB having a positive impact on the sales of their material.

Two of these publishers stated that most of the agents and buyers, as soon as they see the publication in the SANB, enquire about purchase details from their local publishers and bookshops. The other publisher firstly elaborated that the SANB also served as an advertising agent for publishers to local and overseas-based markets that easily access the bibliography via the Internet. Secondly the publisher pointed out that the public should be made aware of the listing, because publishers receive many calls asking for titles, which they would not if the callers had checked the listing first.

Eight publishers from the 30 who responded “no” to question 20 also gave reasons why they disagreed with listing in the SANB having a positive impact on their sales.

The following reasons were given:

- ✎ Get many calls asking for titles that are in the SANB, whereas if publishers and the public would first search the listing in the SANB themselves they would know exactly what was available and from whom (five publishers).
- ✎ Some of the customers are not Internet based and thus cannot easily refer to the SANB, as they cannot access the bibliography online (four publishers).
- ✎ Most users would not use SANB as the point of reference in determining what to order from publishers (two publishers).
- ✎ Feel that the public should be made aware of the listing (two publishers).
- ✎ A print version of the bibliography was discontinued in 1999 (one publisher).

4.2.20 Additional aspects related to legal deposit

The final question asked if publishers had other aspects relating to legal deposit, which they would like to comment on.

Thirty of the 35 (85.7%) publishers did not have additional comments other than the asked questions on the subject. Three (8.6%) publishers suggested that they would start searching the concept on the Internet to gain more insight into the subject. Two of these publishers in addition promised to check with their companies to identify their position and their understanding of the legal deposit concept. The remaining two (5.7%) of the 35 publishers were not sure of what to comment on, since their knowledge and information about legal deposit was very narrow.

4.3 Summary

In this chapter a summary of results has been presented and described in detail. Chapter 5 will discuss the findings as per study objectives and in the light of the relevant literature.

CHAPTER FIVE: DISCUSSION OF FINDINGS

5.1 Introduction

In this chapter, the findings of the study are considered in the light of the research problem and the literature reviewed. The purpose of this study was to investigate the problems and constraints experienced by publishers concerning legal deposit in KwaZulu-Natal. The order of the following discussion will, with some exceptions, largely reflect the order in which the questions were asked.

5.2 Response Rate

Thirty-five of the 40 publishers surveyed responded - a very good response rate of 87.5%.

5.3 Demographic Information

Certain demographic information was requested from the publishers.

a. Names of Publishers

Table 1 shows that 30 (85.7%) publishers did provide names and given numbers, and that 14.3% did not. The reason for those not doing so was possibly due to their concern to preserve their anonymity and confidentiality. Name disclosure was optional and there is no evidence to suggest that disclosure or non-disclosure had any impact on the responses of the various publishers.

b. Number of years in existence

The majority of publishers, 19 (54.3%) have been in existence for more than 10 years. This reveals that a number of publishers have been in the publishing business for some time. Given this, most of these publishers should have been in a good position to respond to the various questions posed.

c. Types of material published

It is evident from the results, that the companies surveyed publish various materials, and all the formats provided in the questionnaire were indicated as being published. There are

companies, which have a specific target group, for instance Shuter and Shooter, which publish mainly school material.

The most published materials were reference books, textbooks and childrens' books mentioned by 37%, 34% and 31% of the respondents respectively.

5.4 Awareness of requirements of legal deposit

The number of publishers who indicated that they were aware of the requirements was astonishingly high, namely 97%. Awareness of legal deposit is considered critical by Jasion (1991: 19), who points out that all publishers required to deposit must be clear about the legal deposit law so that they can comply with it. Jasion (1991: 19) further states that, when publishers are aware, it is more likely for legal deposit law to receive their support.

5.5 Compliance

The issue of compliance with legal deposit requirements was central to the study. The findings are discussed below.

5.5.1 Compliance with the Legal Deposit Act

The majority of publishers 33 (94.3%) stated that they do comply with legal deposit requirements. This is in contrast with what was pointed out by both the Legal Deposit Committee (Lor, 2001) and the Director of the then Natal Society Library (Pietermaritzburg), the local legal deposit library in KwaZulu-Natal, who expressed dissatisfaction with publishers who do not always comply with legal deposit regulations (Morrison, 2002).

The surprisingly low number of non-compliant publishers may be due to the fact that those companies who are not compliant may be reluctant to reveal that they are, in effect, breaking the law. However, the publishers reported compliance is "supported" by the fact that the vast majority of respondents (97%) indicated that they were aware of legal deposit requirements. As for their reported compliance, this was not tested or verified.

5.5.2 Instances of non-compliance

When respondents were asked if they had instances of not complying with legal deposit requirements 10 (28.6%), publishers revealed that they did. These publishers pointed to lack of knowledge, lack of accountability, non-availability of the required forms and the time factor that restrained them from submitting before deadlines. Again the majority of publishers 23 (65.7%) pointed out they never had instances of not complying with legal deposit. Some publishers stated that they complied, despite being of the opinion that their publications were of little value to legal deposit. Jasion (1991: 20) makes the point that publishers who are aware of legal deposit, but do not practice it on a regular basis, seem to take everything for granted to such an extent that legal deposit libraries have to send more than one request to the publisher for them to respond.

The fact that the majority of publishers expressed compliance in KwaZulu-Natal agrees with Edmondson's (1995: 12) observation that most publishers are willing to comply with legal deposit when they realize that the principle is universal and practiced in many countries.

5.5.3 Instances where compliance is considered unnecessary

When asked about instances where they would consider compliance unnecessary, again, the majority of respondents 25 (71.4%) stated that they would never consider compliance unnecessary, unless instances were mentioned by the law. Three of these publishers even stated they complied in instances where others would not comply, due to the material which was considered of little value to legal deposit. However, because legal deposit is the law, they were prepared to abide by its requirements.

Five (14.3%) publishers pointed out instances where they would not consider it necessary to comply:

- When they were not familiar with legal deposit practice and when material is published for promotional purposes for instance, samples, ephemera and any low value material considered of little value for deposit.

The instances pointed out by the publishers are raised by Jasion (1991: 8) who stated that the legal deposit legislation of each country should be comprehensive and must state clearly what material is subject to legal deposit and what material is not.

5.6 Legal deposit serving its intended purpose

In terms of whether legal deposit was serving its intended purposes of preservation and making material accessible, again, the vast majority of respondents 33 (94.3%) indicated that it was. Respondents were then asked to elaborate. Six of the nine publishers elaborated; pointing out that legal deposit was indeed important to provide some form of preservation, retention and reference. This is in accordance with Universal Bibliographic Control (UBC) as ordered by UNESCO. On the other hand, three publishers stated that, while agreeing with legal deposit serving its intended purpose, publishers also need to comply with the law.

5.7 Extent of agreement with principles of legal deposit

In terms of whether publishers were in agreement with the two main principles of legal deposit, 28 (80%) respondents strongly agreed that “to collect and preserve material” was indeed an essential principle. A smaller majority 24 (68.6%) of publishers indicated strong agreement with the second principle of legal deposit, namely, “to promote access to all people”.

This is an interesting finding considering that, in many countries, according to Davinson (1965: 35), legal deposit was regarded by publishers as an unfavourable and unfair direct tax upon their enterprise. According to Lor (1995: 25), legal deposit can only achieve its preservation and collection purposes if both the legislation and its enforcement are regularly reviewed and adapted to remain relevant and effective in changing circumstances. Edmondson (1995: 23) asserts that legal deposit is the battle of the two principles, “preservation and access”, because preservation of material without access is far from being acceptable.

5.8 Problems experienced

Publishers were asked both open-ended and closed questions relating to problems experienced in terms of complying with legal deposit. The results are discussed below.

5.8.1 Problems as per the open-ended question

As listed in Table 9, 24 publishers indicated that they did experience problems in terms of complying with the Legal Deposit Act. When asked to list what these problems were, the most mentioned problems (mentioned more than twice) were the cost of delivery (15 publishers), lack of compensation for depositing expensive books (12 publishers), time constraints in terms of complying with the requirements (seven publishers), lack of knowledge of the law (four publishers) and, finally, lack of information and clarity of instruction from the Legal Deposit Committee. Of interest is that seven respondents raised the issue of other publishers needing to have their attention drawn to the legal requirements of the Act. In effect, what these seven publishers were suggesting, was that there are publishers who are not complying with the Act and thereby displaying certain contempt for the law. It was argued that, as a consequence of their non-compliance, these publishers were tarnishing the entire publishing industry.

5.8.2 Problems as per closed questions

Some of the problems noted by respondents were also covered in a series of closed questions, and it is the results of these questions which are now discussed:

5.8.2.1 Cost of compliance

Publishers were asked to indicate how much they were spending on complying with legal deposit per annum. Of interest, the majority (80%) of the respondents either were unsure, or did not respond to the question. Seven publishers indicated that it was costing more than R1000 per annum. However, it is evident from the results to the open question mentioned above, that the cost of compliance was a problem for many of the publishers. Costs here referred to those associated with delivery and, also, to those associated with the cost of deposited materials (where no compensation was given to cover the costs). Jasion (1991: 1) pointed out that the delivery of legal deposit material, including that of cost, is the

responsibility of the publisher. Jasion (1991: 2) further points out that while depositing of copies of (in this instance) books would generally have a negligible influence on the purchase price for a book, when the print run is small, for instance less than a hundred copies, the cost element of depositing such books becomes significant. Jasion (1991: 2) also makes the valid point that these deposit copies can also be regarded as lost sales to the publishers concerned. In the present study it does seem that the 12 (34.3%) publishers, who mentioned the cost of deposited materials, were unaware that they could be compensated by government should they apply for this.

In addition, 12 (34.3%) publishers pointed out that depositing expensive books without government compensation is a risk to their companies which, at times, suffer considerable losses due to such compliance. It seems that these publishers were also unaware of the existence of government compensation and the legal deposit exemption opportunity awarded to publishers who apply for this in advance prior to depositing. Jasion (1991: 8) argues that, generally, costs should be covered by the publisher, but only in exceptional cases should a publisher be able to apply for partial relief from the government.

The issue of exemption will be further discussed in section 5.10 and 5.11 respectively.

5.9 Fourteen day deposit period

The majority of respondents, 25 (71.4%) reported having no problems complying with the 14-day period for depositing. However, seven (20%), pointed to the fact that their companies were non-profit, reliant on donor funding and often had staff shortages. This shortage of staff made complying with the 14 days dispatch period a difficult task in that they did not have enough time to complete the necessary forms prior to the deposit.

Edmondson (1995: 25) pointed out that the period most commonly quoted by most legal deposit laws is that, deposit needs to take place, within a month after publication. This is in contrast to the legal deposit law of South Africa, which requires that a publisher deposit within 14 days from the date of publication. Edmondson (1995: 26) further states that there are number of reasons for having a brief deposit period and these include avoiding the item

running out of print and ensuring that publishers do not forget to deposit, which may occur with a prolonged period. Jasion (1991: 8) argues that the earlier the deposit, the better to meet expectations of users who expect national libraries to have a copy of the item and a prompt listing in the national bibliography.

5.10 Awareness of applying for exemption

The majority of publishers, 24 (68.6%) stated that they were not aware that they could apply for exemption. Jasion (1991: 8) argues that a comprehensive legal deposit law must allow provision for compensation, or, at least, to limit the cost of depositing material, such as deluxe editions, small editions and ephemerals.

According to Morrison (2003), forms to apply for exemptions are available from legal deposit libraries. Jasion (1991: 10) concurs with the findings of this study when he further argues that most publishers are not aware of exemptions from the government. He recommends that publishers need to acquire more background information to legal deposit practices.

Lor (1995: 24) states that the implementation of legal deposit legislation requires that the interests of various parties be taken into account; namely, future and present users, authors, publishers and librarians. According to Lor (1995: 24), legal deposit libraries will have to cooperate with one another, and with other libraries, to share the burden of acquiring, processing and preserving their legal deposit holdings. Lor (1995: 24) does emphasize that legal deposit libraries do need to cooperate with publishers and producers of works.

As noted, lack of knowledge of the law was mentioned by four publishers. That 24 of the publishers were not aware of the fact that they could apply for exemption, suggests that lack of knowledge of the legal deposit law is more widespread than the four publishers who mentioned it as a problem. This is supported by Bell (1993: 4) who states that publishers often lack adequate knowledge about legal deposit law.

5.11 Instances of applying for an exemption

Six (60%) out of the 10 publishers, of those who were aware, had applied for an exemption. It is clear from these results that the majority of respondents did not know about, and had not applied for, an exemption. As stated above, knowledge of exemption and actually applying for such, may go some way toward reducing costs experienced by publishers.

According to the researcher, most of the problems of these publishers result from them not completely knowing the legal deposit law. A lack of staff to ensure that they are kept abreast of the legal deposit law and developments in terms of the law may well account for the lack of knowledge displayed by some publishers.

5.12 Number of legal deposit libraries

A vast majority of publishers (82.9%) did not consider the number of deposit libraries too many and were therefore willing to send a copy of each item published to each of the five legal deposit libraries of South Africa. In essence, the problem of depositing five items was not an issue for the vast majority of these publishers. This is a surprising finding given that the cost of compliance has been raised as an issue by a number of the respondents. The depositing of five copies, and the associated delivery costs, one would assume, would be seen as a “problem” by the publishers.

The four publishers who considered the number of legal deposit libraries too many firstly pointed out that they were dissatisfied with the requirement of depositing five copies of each item with the legal deposit libraries. Secondly, these publishers suggested that the government allow publishers to deposit only one copy, and then duplicate the other four at the government’s expense. Most surprisingly, two of these publishers went on to suggest that the government actually increase the number of legal deposit libraries, so that each and every province would have its own. They stated that if legal deposit is to promote access and preservation, then all members of the public need to have access without suffering high travelling expenses to get to the nearest legal deposit library. This could be achieved by ensuring that each of the nine provinces has its own legal deposit library.

Jasion (1991: 3) states that it is up to the government of the country to decide on the number of legal deposit libraries. In most cases, the number of legal deposit libraries depends on the circumstances within each individual country including, the size of the country and the type of legal deposit law. Overall, the majority of publishers in the present study did not consider the number of legal deposit libraries too many.

5.13 Membership of Publishers Association of South Africa (PASA)

The majority of publishers (65.7%) were not registered as members of PASA. Hence they were not receiving PASA notifications, and were also not included in the PASA directory of publishers, as would be the case with those publishers who were registered. According to the researcher, registration with PASA would be ideal for publishers in that they would be reminded of contemporary issues such as copyright, and, of course, issues related to complying with legal deposit law on a regular basis.

Of the eight publishers who were registered with PASA, four reported receiving notifications from PASA, which informed them of changes and amendments on issues pertaining to the publishing industry. Two of the four publishers cited a problem of receiving notices late which, they presumed, was due to mail delivery and geographical distance to the PASA head office.

5.14 Copyright contravention

According to PASA (2000: 2), copyright is posted as a problem issue on online discussion boards of publishers today. PASA regards copyright as the right of creators to prevent unauthorized use by others of their intellectual property. The copyright protects the creators' interests and allows them sole right to control and profit financially from their intellectual work, and to contribute immeasurably to the cultural and intellectual growth of societies.

The majority of publishers (21 or 60%) in the present study did agree that copyright contravention was an issue facing publishers in South Africa, due to the fact that legal deposit promotes access to information for all people, and these people photocopy the

material which then leads to contravening the copyright law. As stated by Edmondson (1995: 26) there is a battle between the two principles “preservation and access” in that preservation of material without access is not acceptable in legal deposit libraries.

Of the six publishers who elaborated, two pointed out that copyright contravention was causing them to lose out in the market and that should people be found contravening the Copyright Act, publishers would take drastic action, which included prosecuting them in a court of law. A further constraint identified by PASA (2000: 2) and that which is of most concern in the copyright context, is that of illegal use of copyright material. Two other publishers encouraged legal deposit libraries to guard against copyright contraventions, as that would reduce instances of this “bad” practice. One publisher asserted that PASA as a representative body should be tasked to visit all legal deposit libraries where they could assess the effect that copyright contravention has on the publishing companies. Three publishers stated that legal deposit libraries should make the public aware of the Copyright Act.

Two publishers were of the view that copyright is not taken seriously in the country. Publishers were, as a result, reluctant to deposit materials as, the moment an item is deposited people disregard purchasing the item from them and simply photocopy the whole item while in the library. McCormick (1999) states that, although publishers are sometimes sympathetic to the public who cannot afford the selling price, they feel bound by business imperatives to ensure that the copyright laws are upheld (McCormick, 1999: 2).

The researcher observed that on the PASA website the issue of copyright is given top priority. It could be argued that publishers should register with PASA so as to be in a position to discuss these problems as a body, rather than on an individual basis. According to the researcher, challenging these problems as PASA will be advantageous rather than challenging them as individuals in that PASA is a formal registered body.

The Publishers Association of South Africa (PASA: 5) points out that a well-developed library system is a constraint to depositing material. The more extensive the use of

libraries where books are freely available, the less control there is of copyright contravention, and the less incentive there is for the purchase of books. The more copyright is contravened, the less the economic incentive is in a society to write and publish material. Referring specifically to journals, Edmondson (1995: 27) maintains that most publishers prefer publishing journals electronically rather than in print format, because it is easier to prevent copyright contravention by acquiring subscription prior to accessing information.

Six publishers in the present study did not consider copyright contravention an issue. Two of these publishers stated that even though they were in full support of the copyright law, they believed that copyright contravention in the form of photocopying should not be forbidden completely, because the majority of students who photocopy are students who normally do not photocopy for resale, but because they are unable to afford to purchase the material. One publisher raised the point that it is the duty of libraries in general to decide to what extent they enforce the copyright law.

In the present study, the majority of publishers were not happy with copyright contravention and so it will require taking steps to eradicate the problem. Edmondson (1995: 34) points out two steps for solving the problem:

- ✎ Co-operation from all information stakeholders and,
- ✎ A need to reframe the legislation so that it accommodates all possible situations.

5.15 In-house archival system

In terms of having an in-house archival system, the majority of publishers, 31(88.6%) pointed out that they do have such a system. Twelve of these publishers stressed the necessity of having back up storage, apart from relying on legal deposit system libraries. The in-house archival systems have advantages, such as being used for reference purposes, for all the company's published material. The second advantage is to serve as a back up as natural disasters can strike any legal deposit library. In this situation, it would be essential to have an in-house archival system as a backup for the preservation of material.

Four (11.4%) publishers stated that they did not need to have an in-house archival system pointing to the duplication of a task already taken care of by the legal deposit libraries. These publishers pointed out that natural disasters would not strike all legal deposit libraries at once, as they are located in different geographic areas.

5.16 Legal deposit playing an archival role

The vast majority of publishers 32 (91.4%), agreed that the South African legal deposit system was playing an archival role for their publications. This is an interesting finding and underscores the important role that legal deposit is playing for the publishers themselves.

5.17 Awareness of Legal Deposit Committee

The majority of publishers 25 (71.4%) were aware of the existence of the Legal Deposit Committee. Surprisingly, seven (20%) publishers were not aware of the existence of the Committee, which, again, suggests a lack of knowledge about legal deposit issues in general.

5.18 Representation on Legal Deposit Committee

The majority of publishers (60%) felt that they had insufficient representation on the Legal Deposit Committee. Three of the six publishers, who disagreed, elaborated stating that publishers were sufficiently represented on the Legal Deposit Committee. The complaint of insufficient representation seemed valid considering that the Legal Deposit Committee comprised of the heads of places of legal deposit, the Head of the Government Printing Works, one representative for all legal deposit libraries, and only two representatives from the publishing industry.

According to the researcher, it is clear that publishers are not adequately represented on the Legal Deposit Committee. This may also be an indication why the researcher suspects that publishers are not able to stand up for their issues and problems at the national level. According to the Legal Deposit Act of 1997, the Minister shall, in consultation with the various interest groups, such as the publishers and library and information services sector, appoint the chairperson of the Committee. This shows that publishers are considered, but,

perhaps due to the fact that they are insufficiently represented, they are not able to address their problems with the Legal Deposit Committee.

5.19 Awareness of listing in South African National Bibliography (SANB)

The vast majority of publishers (85.7%) were not aware of the listing of their publications in the SANB. This is a surprising finding given that publishers were expected to know their publications are listed in a national bibliography. According to Jasion (1991: 8) listing in a national bibliography is deemed necessary in order to comply with Universal Bibliographic Control (UBC) as ordered by UNESCO. It is therefore necessary for all publishers to be aware of the national bibliography so that, together with legal deposit libraries, they can expand the scope of their country's national bibliography.

5.20 Awareness of a positive impact on the sales of the SANB listed material

Only three (8.6%) publishers were aware of the listing of their publications in the SANB. These three publishers were then asked whether they were aware of this listing having a positive impact on the sales of their material.

Two publishers pointed out that even though the SANB is not intended for marketing purpose, it does serve as a marketing and advertising tool for their publications to their agents and customers. Secondly they also asserted that the scope of their target audience has increased due to the SANB being available on the Internet, which does not have geographical barriers.

Eight publishers from the vast majority who said they were not aware of listing in the SANB did, in fact, give reasons as to why they felt the listing in SANB has no impact on their sales. They pointed to some customers not having Internet access, and, thus, the SANB could not be used as a point of reference, the public not being aware of the availability of the SANB on the Internet, and finally, the fact that the print version of the bibliography has been discontinued since 1999.

5.21 Additional aspects related to legal deposit

Two of the three publishers who had additional comments stressed the fact they were going to start researching aspects of legal deposit on the Internet in order to develop more insight into the concept. Secondly, one of these publishers also indicated that they would liaise with their managers to establish their position with legal deposit and should the response be positive, they would recommend their companies to add a legal deposit department, which would deal with and handle all issues pertaining to legal deposit.

5.22 Summary

The current chapter provided a discussion of the key findings in relation to the objectives of the study. The results show that the majority of publishers are compliant with legal deposit. In spite of compliance, they are beset by a number of problems, though, that undermine the role and the importance of the legal deposit practice. The problems and constraints that publishers experience when complying with the legal deposit are discussed in Chapter Two in more detail. In addition, more issues, such as copyright contravention, own archival system, costs of complying with legal deposit, number of legal deposit libraries, time factor, which are related to legal deposit have also been highlighted in relation to the problems experienced by publishers.

The following chapter will provide concluding comments and recommendations for a better future for legal deposit in KwaZulu-Natal and the rest of South Africa.

CHAPTER SIX: CONCLUSION, RECOMMENDATIONS AND FURTHER RESEARCH

6.1 Introduction

In this, the concluding chapter, a brief summary of the study will be given. The main conclusions drawn from the study will then be highlighted, and this will be followed by recommendations for addressing the problems and constraints facing publishers in KwaZulu-Natal. Finally, suggestions for future research will be made. To begin with, however, the objectives of the study will be revisited.

6.2 Revisiting the objectives of the study

The purpose of the study was to investigate the problems and constraints experienced by publishers concerning legal deposit in KwaZulu-Natal.

In the light of the purpose, the objectives of the study were:

- ✎ To establish which publishers comply with the Legal Deposit and which do not.
- ✎ To determine what print material is published.
- ✎ To find out reasons why publishers fail to deposit.
- ✎ To determine the problems publishers face in terms of complying with the legal deposit legislation, and
- ✎ To make recommendations based on findings.

6.3 Brief summary of the study

In Chapter One the definition and purpose of legal deposit, background to the study, research problem, research purpose, research objectives and research questions were outlined and discussed. This Chapter also highlighted the justification for the study, scope and limitations of the study and definition of terms used.

Chapter Two, the literature review, examined the four requirements of legal deposit, legal deposit legislation, institutions, number of copies required for legal deposit, time limits, and legal deposit enforcement. This chapter was critical to reveal the issues that surround

legal deposit and its practice from around the world. Those issues were also discussed in relation to the South African context.

In Chapter Three, the research methodology adopted for the study; namely, a survey by self-administered questionnaire was described and discussed. A six-page questionnaire was developed as an instrument with both open-ended and closed questions. These questionnaires were administered to a population of publishers in KwaZulu-Natal. Pretesting and distribution of the instrument was described. Finally, the data analysis was briefly discussed.

In Chapter Four, the findings of the survey were presented largely in tabular form, while Chapter Five consisted of a discussion of the results in the light of the relevant literature.

6.4 Conclusions

The survey of 35 publishers in the province of KwaZulu-Natal resulted in the following conclusions:

6.4.1 Publishers compliance with legal deposit

In establishing publishers that are complying, and those that are not, the study revealed that 33 (94.3%) publishers stated that they do comply with legal deposit. As mentioned in the discussion, this may not be a true reflection of what publishers are doing with legal deposit. This is an area that requires further investigation. The high statistics for compliant publishers is supported by even greater awareness of publishers with the requirements of legal deposit with 97% of publishers stating that they were aware of such requirements.

6.4.2 Books/ print materials that are published

In identifying print material that is published, the study revealed that all seven categories mentioned in the questionnaire were being published, even though the quantity varies from one publisher to another. The categories were non-fiction, fiction, children's books, reference, textbooks, newspaper/magazines and periodicals. The textbook was the dominant form of material published as shown in Table 3.

6.4.3 Reasons why publishers fail to deposit

Publishers gave many reasons as to why they found it difficult to comply with legal deposit. These in summary, are:

6.4.3.1 Lack of knowledge

The results have revealed that some publishers (34.3 %) lack adequate knowledge to execute proper legal deposit practice.

6.4.3.2 Too much published material to allow time to deposit

Three publishers pointed out that they have insufficient staff due to their being a non-profit organization – which makes it difficult to carry out the duties associated with legal deposit. Secondly, three publishers were concerned about the amount of material their company has to deposit within the given time frames.

6.4.3.3 Copyright contravention

Sixty percent of publishers pointed out that copyright contravention is an issue that should be addressed. They agreed that they do lose out in the market as a result of copyright contravention.

6.4.4 The problems publishers face in terms of complying with legal deposit legislation

The problems and constraints were investigated by both open and closed questions.

6.4.4.1 Problems as per open-ended questions

- ✎ Fifteen publishers mentioned the cost of delivery as an expense to their companies.
- ✎ Twelve publishers pointed out the lack of compensation for depositing expensive books.
- ✎ Seven publishers raised a time constraint concern in terms of complying with legal deposit requirements.

- ✎ Lack of knowledge of the law was pointed out by four publishers, which suggested that more awareness campaigns are needed in future.
- ✎ Lack of information and clarity of instruction was identified as a problem that publishers have regarding the legal deposit practice.
- ✎ Seven publishers pointed out the issue of publishers who needed to have their attention drawn to legal deposit requirements for them to be compliant with the practice.

6.4.4.2 Problems as per closed questions

- ✎ In terms of cost compliance, twelve publishers indicated that the legal deposit compliance was expensive. Seven of these publishers were unaware that compensation and exemptions are obtainable through application to the Legal Deposit Committee.
- ✎ Regarding the fourteen-day dispatch period, seven publishers pointed to the fact that shortage of staff made complying with this period difficult.
- ✎ As far as awareness of applying for an exemption is concerned a majority of publishers (68.6%) pointed out that they were unaware of being able to apply for an exemption.
- ✎ In terms of the number of legal deposit libraries, four publishers complained that the number of copies to be sent for legal deposit were too many.
- ✎ In terms of membership of PASA, twenty-three publishers were not registered with PASA.

- Regarding the legal deposit playing an archival role, the vast majority (91.4%) agreed that the South African legal deposit system was playing an archival role for their publications.
- Lack of knowledge about legal deposit issues was again evident when seven publishers pointed out their lack of awareness of the Committee's existence.
- Six publishers stated that they were not adequately represented on the LDC.
- Concerning the listing and positive impact on sales of SANB listed material the vast majority of publishers (85.7%) were unaware of the listing, while five of those who were aware stated that SANB had no impact whatsoever on their sales.

6.5 Recommendations

In this section the researcher proposes certain recommendations and suggestions based on the conclusions of the study. It is hoped that the recommendations relating to the study will assist publishers, the Legal Deposit Committee, and PASA to improve service, understanding and the management of legal deposit in KwaZulu-Natal.

These recommendations are described below:

- Publishers mentioned the high cost of compliance especially when they sometimes had to deposit expensive books. It is therefore recommended that the Legal Deposit Committee should look at reducing the cost of compliance, which perhaps includes educating publishers about applying for exemption and compensation.
- Given that publishers felt that the legal deposit shortcomings were due to a lack of knowledge of the law, it is therefore recommended that workshops and formal meetings should be prioritized to educate said publishers with the law and broader scope of legal deposit.

- ✎ Given that there are publishers who do not comply with legal deposit, it is recommended that publishers need to liaise with the Legal Deposit Committee and the nearest legal deposit library in order to find out what requirements are necessary and obtain forms to be completed.

- ✎ As the majority of publishers (23 or 65%) were not members of PASA, it is therefore recommended that they should also register in order that, amongst other things, they receive notifications, which will inform and remind them of amendments on a regular basis.

- ✎ It is recommended that the Government, the Legal Deposit Committee and PASA should plan meetings to discuss these problems in an effort to find amicable solutions for all stakeholders.

- ✎ Given the situation that lack of awareness in KwaZulu-Natal may also be a true reflection of legal deposit in other provinces, it is recommended that meetings for awareness campaigns should not only be held in the province, but also in the whole country in order to educate all publishers about requirements in complying with legal deposit law. This must be done to supplement the sending of notices, procedures, guidelines and policies in paper based media.

- ✎ In terms of copyright contravention and lack of accountability, the researcher recommends that such issues should be addressed and dealt with accordingly, to ensure that publishers understand the practice.

- ✎ It is recommended that all stakeholders involved in legal deposit in the province should have formal meetings, where they can revise and make suggestions to the Legal Deposit Committee on amendments they feel are important to monitor the practice more effectively.

- ✎ The researcher recommends, also, that reframing the regulations surrounding legal deposit could be discussed within the forums mentioned, particularly the regulation relating to the 14-day deposit period.

6.6 Further research

The current study about the problems and constraints surrounding legal deposit in KwaZulu-Natal can provide a basis for future research in the field. The difficulties facing publishers today are now more evident. Three possible studies are outlined below:

- I. The first study should establish to what extent publishers are depositing their publications in legal deposit libraries. The study will require the researcher to look at what has been published by a publisher and correlate it with what has been deposited and then compare the results. This will indicate which publishers are not complying with the legal deposit requirements.
- II. The second study should research the same topic but instead of looking at print and non-print material, electronic media could be the main focus. This will prove vital, because there is a paradigm shift from print material to non-print material as a result of advancing technology. It is certain that these changes will affect South Africa in the long run. To research and plan around them now, will, perhaps, be advantageous in the long-term preservation of electronic records for use by future generations.
- III. The third study would entail moving to the international arena, whereby a researcher will investigate these issues in other countries and look at their systems, general trends, future prospects and possibilities with a view to informing the practice of legal deposit in South Africa.

LIST OF REFERENCES

Aitchison, J.M.H. 1998. Access to books and journal articles by postgraduate students on a course-work master's programme in information studies at the University of Natal, Pietermaritzburg. M.I.S. thesis. Pietermaritzburg: University of Natal.

Babbie, E.R. 1998. *The practice of social research*. Belmont, California: Wadsworth.

Babbie, E.R. 2000. *The practice of social research*. 2nd ed. Belmont, California: Wadsworth.

Babbie, E.R. 2001. *The practice of social research*. South African ed. Oxford: Cape Town

Behrens, S.J. 1988. *Bibliographic control and information sources: an introduction for South African students*. Pretoria: University of South Africa.

Behrens, S.J. 1996. Recommendations for the improvement of national bibliographic services in South Africa. *South African Journal of Library and Information Science*. 64(2): 81.

Bell, H. 1992. Legal deposit in Euston Street. *Serials*. 5(3): 53-57.

Bell, J. 1993. *Doing your research project: a guide for first-time researchers in education and social science*. Buckingham: Open University.

Bell, R. 1977. Legal deposit in Britain. *Law Librarian*. 8(2): 22-23.

Blaxter, L. 1996. *How to research*. Buckingham: Open University.

Bless, C. 1997. *Fundamentals of social research methods: an African perspective*. 2nd ed. Kenwyn: Juta.

Bless, C. 2000. *Fundamentals of social research*. Kenwyn: Juta.

Bless, C and C. Higson-Smith. 2000. *Fundamentals of social research*. 3rd ed. Kenwyn: Juta.

Bowers, J.C. 1984. *Communication research method*. Glenview: Foresman.

Busha, C.H. and S.P. Harter. 1980. *Research methods in librarianship: techniques and interpretation*. New York: Academic Press.

Collyns, M. 1987. Legal deposit in New Zealand: an evolving process. *New Zealand Libraries*. 45(6): 120-123.

Cornish, G.P. 1994. Copyright issues in legal deposit and preservation. *IFLA Journal*. 3(1): 341-349.

Crews, K.D. 1988. Legal deposit in four countries: laws and library services. *Law Library Journal*. 80(4): 551-576.

Davinson, D. 1965. *Academic and legal deposit libraries*. 2nd ed. London: Clive Bingley.

De Vos, A.S. et al. 2002. Research at grass roots for the social sciences and human service professions. 2nd ed. Pretoria: Van Schaik.

Dillman, D.A. 2000. *Mail and Internet surveys: the tailored design method*. 2nd ed. New York: John Wiley & Sons.

Directory of Publishers' Association of South Africa.

<http://www.publishsa.co.za/publishers.htm> Accessed: 02/05/2004.

Dirmaichner, V. 1995. On the question of compensation for delivery of deposit copies. *Bayernheksforum*. 23(1): 64-84.

Edmondson, D. 1995. *Legal Deposit paper*. New York: Cambridge.

Fouche, B and T, James. 1999. *Utilizing information technology to enhance the services of the State Library and other official publication depositories: a preliminary report*. Meta-information. Current status of official publications in South Africa. Pretoria: Department of Arts, Culture, Science and Technology.

Gay, L. R. 1976. *Educational research: competencies for analysis and application*. Columbus Ohio: Merrill.

Gorman, G.E. 1997. *Qualitative research for the information professional: a practical handbook*. London: Library Association.

Harrison, H.P. 1995. Legal issues in audiovisual archives. *IASA Journal*. 6: 40.

Henty, M. 1996. Electronic format serials: National Library perspectives. Paper presented at the ACLIS Seminar, Hyperlinked and Hyperactive: Serials Acquisitions of the Future, Brisbane, 20 June 1996.

<http://www.nla.gov.au/nla/staffpaper/henty2.html> Accessed: 15/7/2004.

Ilomaki, H. Printed matter and audiovisual materials as legal deposit copies.
<http://hul.helsinki.fi/tietolinja/0199/coventi.html> Accessed: 10/06/2003.

International Federation of Library Associations and Institution (IFLANET). History of legal deposit. <http://www.ifla.org/VII/s1/gn1/chap2.htm> Accessed: 20/4/2002.

Jasion, J. 1991. *The international guide to legal deposit*. Aldershot: Ashgate.

Legal Deposit Committee of South Africa. 2002. *Progress report on legal deposit in South Africa*. Pretoria: Department of Arts, Culture, Science and Technology.

Lor, P.J. 1995. Legal deposit: some issues in the international scene. *Mousaion* 13(1&2): 94-111.

Lor, P.J. 2001. *South African Legal Deposit Committee Report Annexure B from the members delegated to visit overseas countries*. Pretoria: Department of Arts, Culture, Science and Technology.

Lor, P.J. 2003. Guidelines for legislation for national library services.
http://www.unesco.org/webworld/nominations/guidelines1_h.htm Accessed: 14/12/2003.

Lyon, J. 1997. The nation's virtual memory. *Information World Review*. 124: 9.

Malan, S.I. 1978. *Library science and information service: a general orientation*. Durban: Butterworth.

Manzoni, M. 1994. A synthesis on legal deposit and its practice in the EC member of states. *Alexandria* 6(1): 81-83.

McCormick, P. 1999. *Legal deposit in Canada*. Ottawa: National Library of Canada.

Media Institute of Southern Africa. 1999. *Directory of Publishers in Southern Africa*. Windhoek: Media Institute of Southern Africa.

Morris, S. 1973. *Legal deposit libraries bill*. Cambridge: Cambridge University.

Morrison, J. 2002. Personal communication on legal deposit of publications by publishers in KwaZulu-Natal. Pietermaritzburg: Natal Society Library.

Newell, R. 1993. Questionnaires. In: Gilbert, N. (ed). *Researching social life*. London: Sage. Pp. 94-115.

Nweke, K.M.C. 1991. Legal deposit laws in Nigeria and bibliographic control of nigeriana since 1950. *Government Publications Review*. 18: 339-345.

PASA *see* Publishers Association of South Africa.

Peil, M. 1982. *Social science research methods: an African handbook*. London: Hodder and Soughton.

Pinion, C.F. 1996. AV archives and deposit agreements. *IASA Journal*. 7: 12-23.

Powell, R.R. 1990. *Basic research methods for librarians*. 2nd ed. London: Ablex.

Powell, R.R. 1997. *Basic research methods for librarians*. 3rd ed. London: Ablex.

Publishers' Association of South Africa. 2000. *PASA Directory*. 3rd ed. Cape Town: Publishers' Association of South Africa.

Publishers' Association of South Africa. <http://www.publishsa.co.za/publishers.htm>
Accessed: 12/10/2004.

Shaw, T.S. 1975. Legal depository libraries. *Encyclopedia of library and information science*. 14: 140-181.

Smith, G. 1999. The legal deposit of non-print publications: the 1998 working party on legal deposit. *Serials*. 12(2): 125-129.

South Africa. Legal Deposit Act. 1982. Pretoria: State Library.

South Africa. Legal Deposit Act. 1997. Pretoria: National Library of South Africa (Pretoria Division).

Understanding Research: learning guide and reader. 2nd ed. 2004. Pietermaritzburg: School of Education Training and Development, University of KwaZulu-Natal.

Welman, J.C. and S.J Kruger. 2001. Research methodology for the business and administrative sciences. 2nd ed. Cape Town: Oxford.

White, S. H. 1986. *Education for professional librarians*. New York: Knowledge Industry.

Willemse, J. 1963. *The legal deposit privilege: with special reference to South Africa*. Pretoria: Unisa.

APPENDICES

APPENDIX 1: LETTER OF INTRODUCTION FROM THE SUPERVISORS

15 September 2003

To whom it may concern

Sipho Tibane (Student no. 952059777) is registered for his MIS Degree with the Information Studies Programme at the University of Natal in Pietermaritzburg. As part of the requirements for his degree he has to complete a minor research thesis. In his research he is examining the issues of legal deposit from the perspectives of publishers of print materials in this Province.

We do believe that it is a worthwhile project and would be most grateful if you could kindly take the time to participate in it.

Thank you.

Sincerely

Athol Leach and Fiona Bell (Supervisors)

APPENDIX 2: LETTER OF INTRODUCTION TO THE QUESTIONNAIRE

LETTER TO THE PUBLISHER

Dear

My name is Sipho Tibane and I am a MIS student at the University of Natal in Pietermaritzburg undertaking research for the minor thesis requirement of the degree.

As you know all publishers in South Africa have to comply with legal deposit requirements stipulated by the Legal Deposit Act of 1997. Little is known about the problems experienced by publishers in terms of complying with this legislation. I am undertaking a survey concerning the legal deposit of print materials in KwaZulu-Natal. I would like to investigate the problems experienced by publishers. It is hoped that the findings of the study will lead to a greater understanding of the issues identified.

Your participation in this study is important and I would be very grateful if you would take approximately 15 minutes of your time to complete the attached questionnaire. A similar questionnaire has been sent to all publishers in the Province, as identified in various directories, e.g. Publishers Association of South Africa (PASA).

Please note that all responses will be treated confidentially (responses will be aggregated) and that no respondents will be identified in the study.

Enclosed is a self-addressed, stamped envelope for returning the completed questionnaire. Please could you do so before 30th October 2003.

Thank you for your participation. Should you wish to have a summary of the findings, would you please indicate this at the end of the questionnaires?

Yours sincerely,
Sipho J. Tibane

APPENDIX 3: SELF ADMINISTERED QUESTIONNAIRE

Questionnaire

An investigation into issues and constraints surrounding legal deposit experienced by publishers in KwaZulu-Natal

1. Name of your publishing company
(Optional)
2. For how many years has your company been operating (publishing) in South Africa?
.....
3. Which types of materials and how many does your company publish annually?
Please indicate the estimated number in the brackets for those that apply.

<u>Type of material</u>	<u>Number published</u>
• Nonfiction	[]
• Fiction	[]
• Reference material	[]
• Textbooks	[]
• Children's books	[]
• Periodicals/ magazines	[]
• Newspapers	[]

4. Does your publishing company deposit material in legal deposit libraries?
Yes []
No []
5. Are you aware of the requirements of Legal Deposit Act?
Yes []
No []

If you have answered No to questions 4 and 5- thank you for your participation.

Please return the questionnaire in the enclosed envelope.....

The preamble to the Legal Deposit Act reads as follows: "To provide for the preservation of national documentary heritage through legal deposit of published documents; to ensure the preservation and cataloguing 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".

In your opinion do you think that legal deposit is serving its intended purposes, as outlined above?

Yes ☐

No ☐

Please elaborate

.....
.....

6. Are there any instances where you have not complied with legal deposit requirements?

Yes ☐

No ☐

If Yes, please explain your reasons for non-compliance.

.....
.....
.....

7. Are there any instances where you would consider it not necessary to comply with the legal deposit requirements?

Yes ☐

No ☐

If Yes, please elaborate

.....
.....
.....

8. What do you consider to be main problems experienced by your publishing company in terms of complying with the Legal Deposit Act? Please list these in order of importance.

.....
.....
.....

What follows in questions 9-12 are specific problems, relating to complying with legal deposit. While some of these may duplicate those listed by you in question 9 please complete.

9. How much approximately is complying with legal deposit regulations costing your company on average per annum?

.....

Please comment if necessary

.....
.....

10. Do you have a problem complying with the 14-day period given for depositing material?

Yes []

No []

If Yes, please elaborate

.....
.....
.....

11.a. Are you aware that you may apply for an exemption for certain materials?

Yes []

No []

b. If Yes, have you ever applied for such an exemption?

Yes []

No []

.....

.....

.....

.....

Do you consider this too many?

No []

.....

.....

.....

.....

A = strongly agree
B = agree
C = disagree
D = strongly disagree
E = don't know

2. To promote access to all people []

No []

85

Yes ☐

No ☐

15. Do you think that copyright contravention of legal deposit materials is an issue facing publishers in South Africa?

Yes ☐

No ☐

Please elaborate

.....
.....

16. Do you have an in-house archival system for your publications?

Yes ☐

No ☐

17. Do you view South Africa's legal deposit libraries as playing an archival role for your publications?

Yes ☐

No ☐

18. Are you aware of the existence of the Legal Deposit Committee which co-ordinates and promotes the implementation of the Legal Deposit Act.

Yes ☐

No ☐

19. If Yes, do you think that publishers have sufficient representation on the Legal Deposit Committee?

Yes ☐

No ☐

Please elaborate.

.....
.....

20. Are you aware that all titles of the materials deposited in terms of the Act are listed in the South African National Bibliography?

Yes ☐

No ☐

21. If Yes, do you think that this has a positive impact on the sales of these materials?

Yes ☐

No ☐

Please elaborate.

.....

.....

.....

22. Are there any other aspects related to legal deposit you would like to comment on?

.....

.....

.....

.....

Thank you for completing this questionnaire. Please return it in the enclosed envelope.

If you would like a summary of the results of this survey- please indicate below.

Yes ☐

No ☐

If Yes, please indicate the address to which the summary should be sent.

- Postal address:

.....

.....

E-mail:

.....