

Copyright (Border Enforcement Measures) (Amendment) Regulations 2005

Table of Contents

Enacting Formula

- 1 Citation and commencement
- 2 Deletion and substitution of regulations 3 and 4
- 3 Amendment of regulation 5
- 4 Deletion and substitution of regulation 7
- 5 New regulation 10
- 6 Deletion and substitution of Schedule

No. S 222

COPYRIGHT ACT (CHAPTER 63)

COPYRIGHT (BORDER ENFORCEMENT MEASURES) (AMENDMENT) REGULATIONS 2005

In exercise of the powers conferred by sections 140B(8) and 202 of the Copyright Act, the Minister for Law hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Copyright (Border Enforcement Measures) (Amendment) Regulations 2005 and shall come into operation on 18th April 2005.

Deletion and substitution of regulations 3 and 4

2. Regulations 3 and 4 of the Copyright (Border Enforcement Measures) Regulations (Rg 5) (referred to in these Regulations as the principal Regulations) are deleted and the following regulations substituted therefor:

“Notice under section 140B (1), or section 140B (1) read with section 254B, of Act

3.—(1) A notice to the Director-General under section 140B(1), or section 140B(1) read with section 254B, of the Act shall —

- (a) where the notice is given by the owner or licensee of the copyright in the copyright material, be in Form 1 in the Schedule; and
- (b) where the notice is given by the performer of a performance embodied in an unauthorised recording, be in Form 2 in the Schedule.

(2) The notice shall be accompanied by —

- (a) a statutory declaration that the particulars in the notice are correct; and
- (b) the fee of \$200 specified in item (1) in the Schedule to the Fees (Copyright Act — Border Enforcement Measures) Order (Cap. 106, O 40A).

(3) The owner or licensee of the copyright in the copyright material may appoint another person to act as his agent for the purpose of giving the notice.

(4) Where the notice is given in relation to an unauthorised recording of a performance, the performer of the performance embodied in the unauthorised recording may appoint another person to act as his agent for the purpose of giving the notice.

Time and manner of giving notice

4. A notice to the Director-General under section 140B(1), or section 140B(1) read with section 254B, of the Act shall be delivered to the Singapore Customs —

- (a) during such time as the office of the Singapore Customs is open for business; and
- (b) at such time as is reasonably possible for an authorised officer to take any action under the Act in relation to the notice.”.

Amendment of regulation 5

3. Regulation 5 of the principal Regulations is amended —

- (a) by inserting, immediately after the word “owner” in paragraph (d), the words “or licensee”; and
- (b) by renumbering the regulation as paragraph (1) of that regulation, and by inserting immediately thereafter the following paragraph:

“(2) Where a notice is given to the Director-General in relation to any unauthorised recording of a performance, the person who has given the notice shall, as and when required by the Director-General, give to the Director-General such information and evidence within such time and in such form as the Director-General may require including such information and evidence as the Director-General may require to establish —

- (a) that the performance is protected under Part XII of the Act and the protection period in respect of the performance has not expired;
- (b) the identity of the performer of the performance embodied in the unauthorised recording;
- (c) that goods to be seized, or which have been seized, are copies of an unauthorised recording of a performance to which section 140B read with section 254B of the Act applies; and
- (d) where the notice was given by a person as agent for the performer of the performance, the authority of the person giving the notice.”.

Deletion and substitution of regulation 7

4. Regulation 7 of the principal Regulations is deleted and the following regulation substituted therefor:

“Refusal to seize

7. An authorised officer may refuse to seize copies of any copyright material or copies of an unauthorised recording of a performance to which a notice under section 140B(1), or section 140B(1) read with section 254B, of the Act relates if the person who has given the notice fails to comply with —

- (a) any requirement by the Director-General under these Regulations; or
- (b) any provision of these Regulations.”.

New regulation 10

5. The principal Regulations are amended by inserting, immediately after regulation 9, the following regulation:

“Prescribed period under section 140LA (3) of Act

10. For the purposes of section 140LA(3) of the Act, the prescribed period shall be —

- (a) 48 hours after the Director-General has given the owner of the copyright in the copyright material or the performer of the performance embodied in an unauthorised recording, as the case may be, the written notice referred to in section 140LA(2) of the Act; or
- (b) where —
 - (i) the detained copies of copyright material or unauthorised recording of a performance, as the case may be, are copies that are to be exported from Singapore or goods in transit that are consigned to a person with a commercial or physical presence in Singapore; and
 - (ii) the owner of the copyright or the performer of the performance embodied in the unauthorised recording, as the case may be, has complied with section 140LA (3)(b)(iii), or section 140LA (3)(b)(iii) read with section 254B, of the Act within the period referred to in paragraph (a),

10 working days after the Director-General has given the owner of the copyright in the copyright material or the performer the written notice referred to in section 140LA(2) of the Act.”.

Deletion and substitution of Schedule

6. The Schedule to the principal Regulations is deleted and the following Schedule substituted therefor:

“THE SCHEDULE

Regulation 3

FORM 1

NOTICE UNDER SECTION 140B (1) OF THE COPYRIGHT ACT (chapter 63) in respect of copyright material

Please read these notes before completing the notice

1. This notice may only be given by the owner or licensee of the copyright in a literary, dramatic, musical or artistic work, a sound recording, a cinematograph film, a published edition of a work or a television or sound broadcast.

2. Unless otherwise indicated, the notice must contain sufficient particulars of all matters specified therein and in Appendices 1 and 2 to enable the Director-General of Customs to act on it. Please follow the instructions in the Explanatory Notes below when filling up the notice.

3. A statutory declaration that the contents of the notice are true is to be enclosed with the notice.

4. A fee of \$200 is payable on giving the notice.

5. Where more than one copyright material is involved, the information in Appendix 1 must be given in respect of each copyright material.

6. You are required to provide the Director-General of Customs with security (whether by way of deposit of money, an instrument of guarantee or otherwise) that is sufficient to —

(a) reimburse the Government for any liability or expense which it may incur as a result of seizing the goods; and

(b) compensate any person suffering damage as a result of the seizure,

in accordance with section 140C of the Copyright Act. Please note that you will be responsible for any liability or expense which exceeds the amount of the security.

7. Please note that the notice lapses within 60 days commencing on the day of the giving of the notice, or at the end of the period for which copyright in the copyright material is to subsist, whichever is the earlier.

NOTICE

To the Director-General of Customs:

1. I, _____⁽¹⁾, hereby give you notice that —
 - (a) copyright in the copyright material(s) mentioned in Appendix 1 to this Notice now subsists under the Copyright Act (Cap. 63); and
 - (b) _____⁽²⁾ *the owner/*licensee of the copyright in the copyright material(s) and object(s) to the import into Singapore of copies of the copyright material(s) as described in Appendix 2 to this Notice.

2. To the best of my knowledge and belief —
 - (a) the importer of the goods is _____⁽³⁾; and
 - (b) the particulars of the time when, and place where, the copies of the copyright material(s) are expected to be imported into Singapore are as follows⁽⁴⁾:

3. The said copies are copies of the copyright material(s) to which section 140B of the Copyright Act applies because —
 - (a) they are copies made, wholly or partly, outside Singapore the making of which was without the consent of the owner of the copyright within the meaning of section 25 (3) of the Copyright Act; and
 - (b) they are not goods in transit within the meaning of section 140A of the Copyright Act.

4. I hereby request that the said copies be dealt with in accordance with Division 6 of Part V of the Copyright Act.

Date:

Signature:

Designation⁽⁵⁾:

*Delete whichever is inapplicable.

Explanatory Notes

⁽¹⁾State the name and address of the person giving the notice.

⁽²⁾If the notice is given by the owner or licensee of the copyright, insert “I am”; if given by an agent, insert the name of the owner or licensee and the word “is”.

⁽³⁾Insert the full name and address of the importer.

⁽⁴⁾State —

- (a) the estimated date of arrival of the copies of the copyright material(s);
- (b) the name of the port, airport or checkpoint by which the copies of the copyright material(s) are expected to be imported into Singapore;
- (c) the name of the ship, the flight number of the aircraft or the vehicle registration number of the motor vehicle by which the copies of the copyright material(s) are expected to be imported into Singapore; and
- (d) where available —
 - (i) the country of origin of the copies of the copyright material(s); and
 - (ii) any other information which may indicate the actual time when and place where the copies of the copyright material(s) will be imported into Singapore.

⁽⁵⁾State the designation of the person giving the notice, i.e. “copyright owner”, “licensee”, “agent of copyright owner” or “agent of licensee”. If the notice is given on behalf of a company, insert the name of the company and the designation within the company of the person giving the notice.

APPENDIX 1

Type of copyright material(s): (literary work/dramatic work/musical work/
artistic work/sound recording/cinematograph film/published edition of a work/
television broadcast/sound broadcast)

Description of copyright material(s):

Full name of *owner*/licensee of copyright in the copyright material(s):

Date of expiry of copyright:

*Delete whichever is inapplicable.

APPENDIX 2

Provide sufficient information to describe and identify the copies of the
copyright material, including, where available, particulars of —

- (a) the quantity and value of the copies;
- (b) the number of packages;
- (c) any mark used;
- (d) any relevant bill of lading or airway bill; and
- (e) any relevant consignment reference number.

FORM 2

NOTICE UNDER SECTION 140B (1) read with section 254B OF THE COPYRIGHT ACT (chapter 63) in respect of unauthorised recording of performance

Please read these notes before completing the notice

1. This notice may only be given by the performer of a performance embodied in an unauthorised recording.

2. Unless otherwise indicated, the notice must contain sufficient particulars of all matters specified therein and in Appendices 1 and 2 to enable the Director-General of Customs to act on it. Please follow the instructions in the Explanatory Notes below when filling up the notice.

3. A statutory declaration that the contents of the notice are true is to be enclosed with the notice.

4. A fee of \$200 is payable on giving the notice.

5. Where more than one performance is embodied in an unauthorised recording, the information in Appendix 1 must be given in respect of each performance so embodied.

6. You are required to provide the Director-General of Customs with security (whether by way of deposit of money, an instrument of guarantee or otherwise) that is sufficient to —

(a) reimburse the Government for any liability or expense which it may incur as a result of seizing the goods; and

(b) compensate any person suffering damage as a result of the seizure,

in accordance with section 140C read with section 254B of the Copyright Act. Please note that you will be responsible for any liability or expense which exceeds the amount of the security.

7. Please note that the notice lapses within 60 days commencing on the day of the giving of the notice, or at the end of the protection period for the performance, whichever is the earlier.

NOTICE

To the Director-General of Customs:

1. I, _____⁽¹⁾, hereby give you notice that —
 - (a) the performance(s) mentioned in Appendix 1 to this Notice is protected under Part XII of the Copyright Act (Cap. 63) and the protection period in respect of the performance has not expired; and
 - (b) _____⁽²⁾ the performer of the performance and object(s) to the import into Singapore of copies of the unauthorised recording of the performance(s) as described in Appendix 2 to this notice.

2. To the best of my knowledge and belief —
 - (a) the importer of the copies of unauthorised recording of the performance(s) is _____⁽³⁾; and
 - (b) the particulars of the time when and place where the copies of the unauthorised recording of the performance(s) are expected to be imported into Singapore are as follows⁽⁴⁾:

3. The said copies are copies of an unauthorised recording of the performance(s) to which section 140B read with section 254B of the Copyright Act applies because —
 - (a) they are copies made, wholly or partly, outside Singapore the making of which was without the authority of the performer of the performance embodied in the recording; and
 - (b) they are not goods in transit within the meaning of section 140A of the Copyright Act.

4. I hereby request that the said copies be dealt with in accordance with Division 6 of Part V read with section 254B of the Copyright Act.

Date:

Signature:

Designation⁽⁵⁾:

*Delete whichever is inapplicable.

Explanatory Notes

⁽¹⁾State the name and address of the person giving the notice.

⁽²⁾If the notice is given by the performer, insert "I am"; if given by an agent, insert the name of the performer and the word "is".

⁽³⁾Insert the full name and address of the importer.

⁽⁴⁾State —

- (a) the estimated date of arrival of the copies of the unauthorised recording of the performance(s);
- (b) the name of the port, airport or checkpoint by which the copies of the unauthorised recording of the performance(s) are expected to be imported into Singapore;
- (c) the name of the ship, the flight number of the aircraft or the vehicle registration number of the motor vehicle by which the copies of the unauthorised recording of the performance(s) are expected to be imported into Singapore; and
- (d) where available —
 - (i) the country of origin of the copies of the unauthorised recording of the performance(s); and
 - (ii) any other information which may indicate the actual time when and place where the copies of the unauthorised recording of the performance(s) will be imported into Singapore.

⁽⁵⁾State the designation of the person giving the notice, i.e. "the performer" , or "agent of performer". If the notice is given on behalf of a company, insert the name of the company and the designation within the company of the person giving the notice.

APPENDIX 1

Description of performance(s):

Full name(s) of performer(s) in the performance(s):

Date of expiry of protection period of performance(s):

APPENDIX 2

Provide sufficient information to describe and identify the copies of the unauthorised recording, where available, particulars of —

- (a) the quantity and value of the copies;
- (b) the number of packages;
- (c) any mark used;
- (d) any relevant bill of lading or airway bill; and
- (e) any relevant consignment reference number."

Made this 1st day of April 2005.

LIEW HENG SAN
*Permanent Secretary,
Ministry of Law,
Singapore.*

[LAW 18/001/003 V5; AG/LEG/SL/63/2003/1 Vol. 3]