

Copyright (Amendment) Regulations 2005

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COPYRIGHT ACT

No. S 221

(CHAPTER 63)

COPYRIGHT (AMENDMENT) REGULATIONS 2005

In exercise of the powers conferred by section 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 (Amendment) Regulations 2005 and shall come into operation on 18th April 2005.

Deletion of regulation 3

2. Regulation 3 of the Copyright Regulations (Rg 4) is deleted.

Amendment of regulation 5

3. Regulation 5 of the Copyright Regulations is amended by deleting the words “section 34(b)” and substituting the words “sections 34(b) and 105A(b)”.

New regulation 5A

4. The Copyright Regulations are amended by inserting, immediately after regulation 5, the following regulation:

“Prescribed period for retention of records and copies made for simulcasting

5A.—(1) Where a sound recording or cinematograph film of a literary, dramatic or musical work, or of an adaptation of such a work, is made in accordance with section 43A(1) and (2) of the Act, the prescribed period for the purposes of section 43A(3) of the Act shall be —

- (a) subject to sub-paragraphs (b) and (c), 6 months;
- (b) subject to sub-paragraph (c), if the recording or film is made by a non-profit organisation, 2 years; or
- (c) such longer period as may be agreed between the maker of the recording or film and the owner of the copyright in the work,

commencing from the day on which the recording or any further record embodying the recording referred to in section 43A(2)(b)(i) of the Act, or the film or any further copy of the film referred to in section 43A(2)(b)(ii) of the Act, as the case may be, is first used for the purpose of simulcasting the work or adaptation, as the case may be, in digital form.

(2) Where a copy of a sound recording or cinematograph film is made in accordance with section 107A(1) and (2) of the Act, the prescribed period for the purposes of section 107A(3) of the Act shall be —

- (a) subject to sub-paragraphs (b) and (c), 6 months;
- (b) subject to sub-paragraph (c), if the copy is made by a non-profit organisation, 2 years; or
- (c) such longer period as may be agreed between the maker of the copy and the owner of the copyright in the recording or film,

commencing from the day on which that copy or any further copy referred to in section 107A(2)(b) of the Act is first used for the purpose of simulcasting the recording or film in digital form.”.

New regulation 7A

5. The Copyright Regulations are amended by inserting, immediately after regulation 7, the following regulation:

“Particulars of communication records

7A.—(1) For the purposes of section 52(7C) of the Act, a record of the communication of the whole or part of an article contained in a periodical publication by or on behalf of the body administering an educational institution for the educational purposes of the educational institution shall set out —

- (a) if the International Standard Serial Number in respect of the periodical publication is recorded in the periodical publication — that number;
- (b) if the International Standard Serial Number in respect of the publication is not so recorded — the name of the periodical publication;
- (c) the title or description of the article;
- (d) the name of the author of the article (if that name is known);
- (e) the volume or volume and number, as the case requires, of the periodical publication containing the article;
- (f) the page numbers of the pages in that volume, or in that number of that volume, that have been communicated, or, in a case where a page so communicated does not bear a page number, such description of

the page as will enable it to be identified;

- (g) the date on which the communication was made; and
- (h) the number of persons to whom the communication was made.

(2) For the purposes of section 52(7D) of the Act, a record of the communication of the whole or part of a work (not being an article contained in a periodical publication) by or on behalf of the body administering an educational institution for the educational purposes of an educational institution shall set out —

- (a) if the International Standard Book Number in respect of the work is recorded in the edition of the work copied — that number;
 - (b) if the International Standard Book Number in respect of the work is not so recorded —
 - (i) the title or description of the work;
 - (ii) the name of the publisher of the edition of the work; and
 - (iii) the name of the author of the work (if that name is known);
 - (c) the page numbers of the pages in the edition of the work that have been communicated, or, in a case where a page so communicated does not bear a page number, such description of the page as will enable it to be identified;
 - (d) if the work is contained in a published edition that is stored on any medium by electronic means, the total number of bytes in the edition that have been communicated;
 - (e) the date on which the communication was made; and
 - (f) the number of persons to whom the communication was made.
- (3) For the purposes of paragraphs (1)(h) and (2)(f), if —
- (a) the communication is made through a network operated or controlled by an educational institution;
 - (b) the communication is made to enable persons undertaking a course of education provided by that or another educational institution to receive the article or work or that part of the article or work, as the case may be; and

- (c) the number of persons to whom the communication was made cannot reasonably be ascertained,

the number of persons to whom the communication was made shall be taken to be equal to the number of students enrolled in that course of education.”.

New regulation 8A

6. The Copyright Regulations are amended by inserting, immediately after regulation 8, the following regulation:

“Keeping of records and period for payment for communication

8A.—(1) For the purposes of section 52(7C) and (7D) of the Act, a record of the communication of a work or a part of a work shall be kept in writing or in any manner that permits the information in the record to be elicited by the use of a computer.

(2) Subject to paragraph (3), where a record of the communication of a work or a part of a work is kept in writing, that record shall be kept in accordance with —

- (a) in the case of the communication of the whole or a part of an article contained in a periodical publication — the form in the Ninth Schedule; or
- (b) in the case of the communication of the whole or a part of a work not being an article contained in a periodical publication — the form in the Tenth Schedule.

(3) Strict compliance with the forms in the Ninth and Tenth Schedules is not necessary and substantial compliance is sufficient.

(4) For the purposes of section 52(11C) of the Act, the prescribed period shall be 4 years.”.

Amendment of regulation 9

7. Regulation 9 of the Copyright Regulations is amended —

- (a) by inserting, immediately after paragraph (3), the following paragraphs:

“(4) Where the communication of the whole or a part of the work is made in reliance on section 52 of the Act by or on behalf of the body administering an educational institution, the body administering the institution and the custodian in charge of the

communication records of the institution shall retain the relevant record in relation to the communication in the records of the institution until the expiration of 4 years after the date of the communication.

(5) The body administering the institution and, subject to paragraph (6), the custodian in charge of the communication records of the institution which fail to comply with paragraph (4) shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$1,000.

(6) No custodian in charge of the communication records of an educational institution shall be guilty of an offence of failing to comply with paragraph (4) if he proves that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control or supervision.”; and

(b) by deleting the marginal note and inserting the following regulation heading:

“Retention of declarations in relation to copies, copying records and communication records”.

New regulation 9A

8. The Copyright Regulations are amended by inserting, immediately after regulation 9, the following regulation:

“Notice under section 45(9) of Act

9A.—(1) A notice given under section 45(9) of the Act to a person to whom an electronic copy of an article, or a part of an article, contained in a periodical publication, or of the whole or part of a published literary, dramatic or musical work other than such an article, is communicated shall state —

- (a) that the electronic copy has been made under section 45 of the Act;
- (b) that the article or work might be subject to copyright protection under the Act;
- (c) that the person is only entitled to use the electronic copy communicated to him for the purposes of his own research or study; and
- (d) that the person shall not use the electronic copy communicated to him

in any manner which might constitute an infringement of any copyright in the article or work.

(2) Subject to paragraph (3), an authorised officer of a library or archives who, before or when communicating such an electronic copy to a person under section 45(2) and (9) of the Act, fails to give that person the notice under paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

(3) No authorised officer of a library or archives shall be guilty of an offence of failing to comply with paragraph (2) if he proves that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(4) The notice under paragraph (1) may be given in writing or in any manner that permits the information in the notice to be elicited by the use of a computer.”.

Amendment of regulation 11

9. Regulation 11 of the Copyright Regulations is amended —

(a) by inserting, immediately after paragraph (2), the following paragraph:

“(2A) The owner of the copyright in a work, or the agent of such an owner, may notify the custodian in charge of the communication records of an educational institution, in writing, that the owner or agent, as the case may be, wishes to inspect —

(a) all the relevant records of the institution that relate to the communication, in reliance on section 52 of the Act, of electronic copies of works or parts of works; or

(b) such of those records as relate to any works by a specified author,

on a day specified in the notice, being an ordinary working day of the institution not less than 7 days after the date of the giving of the notice.”;

(b) by inserting, immediately after the words “paragraph (2)” in paragraph (4), the words “or (2A)”;

(c) by inserting, immediately after the words “copying records” wherever they appear in paragraphs (4) and (6), the words “or communication records, as the case may be,”.

Deletion of regulation 16

10. Regulation 16 of the Copyright Regulations is deleted.

Deletion of First Schedule

11. The First Schedule to the Copyright Regulations is deleted.

Deletion and substitution of Second and Third Schedules

12. The Second and Third Schedules to the Copyright Regulations are deleted and the following Schedules substituted therefor:

“SECOND SCHEDULE

Regulation 4

INSTITUTIONS ASSISTING HANDICAPPED READERS

- (1) Singapore Association of the Visually Handicapped
- (2) Singapore School for the Visually Handicapped.

THIRD SCHEDULE

Regulation 5

FORM OF

NOTICE FOR PURPOSES OF SECTIONS 34 (b) AND 105A (b)

COPYRIGHT ACT (CHAPTER 63)

COPYRIGHT REGULATIONS WARNING

A copyright owner is entitled to take legal action against a person who infringes his copyright. Unless otherwise permitted by the Copyright Act, unauthorised copying of a work in which

copyright subsists may infringe the copyright in that work.

Where making a copy of a work is a fair dealing under section 35 of the Copyright Act, making that copy is not an infringement of the copyright in the work. Where making a copy of an audio-visual item is a fair dealing under section 109 of the Copyright Act, making that copy is not an infringement of the copyright in the item or in any work or other audio-visual item included in the item.

It is a fair dealing to make a copy, for the purpose of research or study, of one or more articles on the same subject-matter in a periodical publication or, in the case of any other work, of a reasonable portion of a work. In the case of a published work that is not less than 10 pages and is not an artistic work, 10% of the total number of pages, or one chapter, is a reasonable portion. In the case of an electronic version of a published work that is not divided into pages and is not an artistic work, each of the following is a reasonable portion:

- (a) 10% of the total number of bytes in that edition;
- (b) 10% of the total number of words in that edition or, where it is not practicable to use the total number of words as a measure, 10% of the contents of that edition; or
- (c) one chapter of the work.

More extensive copying may also constitute a fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in sections 35 and 109 of the Copyright Act.”

New Ninth and Tenth Schedules

13. The Copyright Regulations are amended by inserting, immediately after the Eighth Schedule, the following Schedules:

“NINTH SCHEDULE

Regulation 8A(2)(a)

FORM OF

RECORD FOR PURPOSES OF SECTION 52 (7C)

RECORD OF COMMUNICATION OF THE WHOLE OR A PART OF
AN ARTICLE CONTAINED IN A PERIODICAL PUBLICATION
BY OR ON BEHALF OF THE BODY ADMINISTERING

(name of educational institution)

| <i>Item</i> | <i>Matter</i> | <i>Particulars</i> |
|-------------|---|--------------------|
| 1 | If the International Standard Serial Number in respect of the periodical publication is recorded in the periodical publication — that number. | |
| 2 | If the International Standard Serial Number in respect of the publication is not so recorded — the name of the periodical publication. | |
| 3 | The title or description of the article. | |
| 4 | The name of the author of the article (if that name is known). | |
| 5 | The volume, or volume and number, as the case requires, of the periodical publication containing the article. | |
| 6 | The page numbers of the pages in that volume, or in that number of that volume, that have been communicated, or, in a case where a page so communicated does not bear a page number, such description of the page as will enable it to be identified. | |
| 7 | The date on which the communication was made. | |
| 8 | The number of persons to whom the communication was made. | |
| 9 | The date on which this record is made. | |

(Signature)

TENTH SCHEDULE

Regulation 8A(2)(b)

FORM OF

RECORD FOR PURPOSES OF SECTION 52 (7D)

RECORD OF COMMUNICATION OF THE WHOLE OR A PART OF A WORK
(NOT BEING AN ARTICLE CONTAINED IN A PERIODICAL PUBLICATION) BY
OR ON BEHALF OF THE BODY ADMINISTERING (name of educational institution)

| <i>Item</i> | <i>Matter</i> | <i>Particulars</i> |
|-------------|---|--------------------|
| 1 | If the International Standard Book Number in respect of the work is recorded in the edition of the work copied — that number. | |
| 2 | If the International Standard Book Number in respect of the work is not so recorded — (a) the title or description of the work; (b) the name of the publisher of the edition of the work; and (c) the name of the author of the work (if that name is known). | |
| 3 | The page numbers of the pages in the edition of the work that have been communicated, or, in a case where a page so communicated does not bear a page number, such description of the page as will enable it to be identified. | |
| 4 | If the work is contained in a published edition that is stored on any medium by electronic means, the total number of bytes in the edition that have been communicated. | |
| 5 | The date on which the communication was made. | |
| 6 | The number of persons to whom the communication was made. | |
| 7 | The date on which this record is made. | |

(Signature)".

[G.N. Nos. S 528/92; S166/96; S18/97; S 226/98; S 534/99]

Made this 1st day of April 2005.

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

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