



THE STATUTES OF THE REPUBLIC OF SINGAPORE

**MANUFACTURE OF OPTICAL DISCS
ACT 2004**

2020 REVISED EDITION

This revised edition incorporates all amendments up to and including 1 December 2021 and comes into operation on 31 December 2021.

Prepared and Published by

THE LAW REVISION COMMISSION
UNDER THE AUTHORITY OF
THE REVISED EDITION OF THE LAWS ACT 1983

Manufacture of Optical Discs Act 2004

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An Act to provide for the regulation and control of the manufacture of optical discs, and for matters connected therewith.

[30 July 2004]

PART 1

PRELIMINARY

Short title

1. This Act is the *Manufacture of Optical Discs Act 2004*.

Interpretation

2. In this Act, unless the context otherwise requires —

“article” includes any device, contrivance, machine or equipment;

“authorised officer” means any officer appointed by the Minister under section 3(1);

“licence” means a licence granted under section 7(1), and “licensee” is to be construed accordingly;

“licensed premises”, in relation to a licence, means any premises specified in the licence in which optical discs are authorised to be manufactured in accordance with this Act;

“manufacture” means the processes and activities involved in the making of optical discs, including (where applicable) mastering or replicating or both;

“manufacturer’s code” means the manufacturer’s code assigned to a licensee under section 7(3)(a);

“optical disc” means any medium or article specified in the Schedule;

“place” means any area on land or water and includes any building, structure or enclosure, whether moveable or not;

“register” means the register established and maintained by the Registrar under section 12;

“Registrar” means the Registrar of Optical Discs appointed under section 3(1).

Appointment of Registrar and other officers

3.—(1) The Minister may appoint a Registrar of Optical Discs, and such Deputy Registrars of Optical Discs and Assistant Registrars of Optical Discs and other officers as the Minister considers necessary for the purposes of this Act.

(2) The Registrar is responsible for the administration of this Act, subject to the general or special directions of the Minister.

(3) The Deputy Registrars of Optical Discs and the Assistant Registrars of Optical Discs have and may exercise, subject to the general direction and supervision of the Registrar, all the powers conferred on the Registrar by this Act.

(4) All officers appointed under subsection (1) are deemed to be public servants for the purposes of the Penal Code 1871.

PART 2

LICENSING, ETC.

Need for licence to manufacture optical discs

4.—(1) Subject to the provisions of this Act, a person must not engage in the manufacture for sale or other commercial purpose of any optical disc in any place except under the authority, and in accordance with the terms and conditions, of a licence.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(3) For the purpose of subsection (1), any person who owns, directs, manages or otherwise has control of a business which undertakes the manufacture of optical discs is deemed to engage in the manufacture of optical discs for a commercial purpose.

Unlicensed premises

5. Any licensee who manufactures for sale or other commercial purpose any optical disc in a place other than the licensed premises shall be guilty of an offence.

Application for licence

6.—(1) An application for the grant or renewal of a licence must be made to the Registrar in such form and manner as the Registrar may determine.

(2) The Registrar may, at any time after receiving the application under subsection (1), by written notice require the applicant to provide such additional documents or information as the Registrar considers necessary.

(3) Where any additional document or information required under subsection (2) is not provided by the applicant within the time specified in the notice or any longer period granted by the Registrar, the application is deemed to be withdrawn.

Grant or renewal of licence

7.—(1) The Registrar may, upon receipt of an application together with the documents and information required under section 6, grant or renew a licence (as the case may be) or refuse to do so.

(2) Without limiting subsection (1), the Registrar may refuse to grant or renew a licence if he or she is satisfied that —

- (a) the applicant, or any individual who is or is to be a director, manager, secretary or other similar officer of the applicant, has been convicted of an offence under this Act;
- (b) the applicant, or any individual who is or is to be a director, manager, secretary or other similar officer of the applicant, has provided to the Registrar any false or misleading information; or
- (c) the applicant is, for any other reason, not a fit and proper person to hold a licence.

(3) If the Registrar grants a licence under subsection (1) —

- (a) the Registrar must assign to the licensee a manufacturer's code which must consist of —
 - (i) one or more letters or numbers;
 - (ii) a mark, sign, symbol or device; or
 - (iii) any combination of letters, numbers, marks, signs, symbols or devices,as may be prescribed or determined by the Registrar; and
- (b) the Registrar may impose any terms or conditions that he or she thinks fit.

Form and duration of licence

8. Every licence is to be in such form as may be determined by the Registrar and, unless sooner cancelled, is valid for such period as may be specified in the licence.

Power to vary terms and conditions

9.—(1) The Registrar may, at any time after a licence is granted or renewed, by written notice add to, vary or revoke any term or condition of the licence.

(2) The Registrar must, before taking any action under subsection (1) —

- (a) give the licensee written notice of the Registrar's intention to do so; and
- (b) give the licensee an opportunity to make written representations, within the time specified in the notice or any longer period granted by the Registrar, as to why the term or condition should not be added to, varied or revoked, as the case may be.

Suspension or cancellation of licence

10.—(1) The Registrar may, by written notice, suspend or cancel a licence if he or she is satisfied that —

- (a) there exists a ground on which he or she may refuse to grant or renew a licence under section 7;
- (b) the licensee has contravened any term or condition of the licence or any provision of this Act;
- (c) the licensee has ceased to carry on the business of manufacturing optical discs in the licensed premises; or
- (d) there exists such other circumstances as may be prescribed.

(2) The Registrar must, before suspending or cancelling a licence under subsection (1) —

- (a) give the licensee written notice of the Registrar's intention to do so; and

(b) give the licensee an opportunity to make written representations, within the time specified in the notice or any longer period granted by the Registrar, as to why the licence should not be suspended or cancelled, as the case may be.

(3) Any suspension or cancellation of a licence under subsection (1) takes effect —

(a) where there is no appeal against the suspension or cancellation under section 14, on the expiry of 14 days from the date on which the notice of suspension or cancellation (as the case may be) is served on the licensee; or

(b) where there is an appeal against the suspension or cancellation under section 14, when the suspension or cancellation (as the case may be) is confirmed by the Minister.

Surrender of licence

11.—(1) A licensee may surrender the licensee's licence by forwarding it to the Registrar with a written notice of its surrender.

(2) The surrender takes effect on the date the Registrar receives the licence and the notice under subsection (1) or, where a later date is specified in the notice, on that later date.

Register

12.—(1) The Registrar must establish and maintain a register of the licences granted under this Act in the form and manner that he or she thinks fit.

(2) The Registrar must make the register available for public inspection subject to any terms or conditions that he or she considers appropriate.

Maintenance of records

13.—(1) A licensee must keep and maintain complete and accurate records in such form and manner, and containing such information, as may be prescribed.

(2) The records mentioned in subsection (1) must be —

(a) kept up-to-date and in good order and condition; and

(b) available at all times for examination by any authorised officer or police officer.

(3) A licensee must submit any records, or provide any other documents or information, required by the Registrar within the time specified by the Registrar.

(4) Any licensee who contravenes subsection (1), (2) or (3) shall be guilty of an offence.

Appeal to Minister

14.—(1) Any person who is aggrieved by a decision of the Registrar under this Part may appeal to the Minister within 14 days after the date on which the person is notified of the decision or any longer period allowed by the Minister.

(2) The Minister may confirm, vary or reverse the Registrar's decision appealed against, or give any directions in the matter that the Minister thinks fit.

(3) The Minister's decision under subsection (2) is final.

PART 3

MANUFACTURER'S CODE

Optical discs to be marked with manufacturer's code

15.—(1) Subject to subsection (2), every licensee must mark, or cause to be marked, each optical disc manufactured by the licensee with the manufacturer's code assigned to the licensee under section 7(3)(a) and in accordance with the standards prescribed under section 16.

(2) A licensee need not comply with subsection (1) in relation to any optical disc if, and only if, a person who owns or is a licensee of the right to reproduce the content in the optical disc, which the licensee has verified, has requested the licensee not to mark the optical disc with the manufacturer's code.

(3) Any licensee who contravenes subsection (1) shall be guilty of an offence.

Marking standards

16.—(1) The Minister may prescribe standards for the marking of manufacturer's codes on optical discs.

(2) Without limiting subsection (1), the Minister may —

- (a) prescribe different standards in relation to different classes or descriptions of optical discs;
- (b) prescribe standards relating to the manner in which, and the means by which, manufacturer's codes are to be marked on optical discs generally or on optical discs of any class or description; or
- (c) adopt or incorporate by reference standards that have been published by any body or authority in Singapore or elsewhere, with or without modification, and either as in effect on a particular date specified or as amended from time to time.

Applying false manufacturer's code

17.—(1) Any person who falsely applies, or causes to be falsely applied, to an optical disc a manufacturer's code or any mark so resembling a manufacturer's code as to be calculated to deceive shall be guilty of an offence.

(2) In any proceedings for an offence under subsection (1), it is a defence for the person charged to prove that the person acted without intent to deceive or defraud.

PART 4

ENFORCEMENT

Powers of arrest and investigation

18.—(1) Any authorised officer or police officer may arrest without warrant any person whom he or she reasonably believes has committed an offence under this Act.

(2) An authorised officer who is not a police officer may exercise all or any of the powers in relation to investigations into an arrestable offence conferred on a police officer by the Criminal Procedure Code 2010 in any case relating to the commission of an offence under this Act.

(3) Every offence under this Act is deemed to be an arrestable offence within the meaning of the Criminal Procedure Code 2010.

Inspection of licensed premises, etc.

19.—(1) Any authorised officer or police officer may, for the purposes of this Act, do all or any of the following:

- (a) enter and inspect or search, with or without notice, any licensed premises or place and any person at the licensed premises or place;
- (b) require the provision of specified information or the production of records, books, accounts or documents kept by any licensee or person and inspect, copy, seize or detain any of such records, books, accounts or documents;
- (c) require the production of any identification document from any person in relation to an offence under this Act;
- (d) examine, seize or detain any optical disc, or any article or thing, found in the licensed premises or place, which appears to him or her to be or to contain, or to be likely to be or to contain, evidence of an offence under this Act;
- (e) make any examination or inquiry that may be necessary to ascertain whether the provisions of this Act have been complied with;

(f) exercise any other power that may be reasonable and necessary for giving effect to the provisions of this Act.

(2) A licensee must, when required in writing by any authorised officer or police officer, on such terms or conditions as may be specified by the authorised officer or police officer or as may be prescribed, provide any exemplars of optical discs that may be required to the authorised officer or police officer, or any right-holder organisation.

(3) Any licensee who, without reasonable excuse, contravenes a requirement made under subsection (2) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of a body corporate — to a fine not exceeding \$100,000 and, in the case of a second or subsequent offence, to a fine not exceeding \$200,000; and

(b) in any other case — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent offence, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) In this section, “right-holder organisation” means an organisation or other body which is —

(a) established for the purpose of representing the interests of 2 or more owners of copyright; and

(b) recognised by the Registrar as such in the circumstances of the particular case.

Access to computers and data

20.—(1) When conducting a search or an examination under this Act, an authorised officer or a police officer —

(a) has access to, and may inspect and check the operation of, any computer system and any associated apparatus or material which he or she has reasonable cause to suspect is or has been in use in connection with any offence under this Act; and

(b) may use or cause to be used any such computer system to search any data contained in or available to such computer system.

(2) The authorised officer or police officer may require —

(a) the person by whom or on whose behalf the authorised officer or police officer has reasonable cause to suspect the computer is or has been so used; or

(b) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

to provide him or her with any reasonable technical and other assistance that he or she may require for the purposes of subsection (1).

(3) Any person who contravenes a requirement made under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) In this section, “computer” has the meaning given by section 2(1) of the Computer Misuse Act 1993.

[3/2013; 9/2018]

Forfeiture of optical discs, etc.

21.—(1) Where any person has been convicted of an offence under this Act, the court must, unless it is of the view that the offence is minor or that there are exceptional circumstances for deciding otherwise, order the person to forfeit to the Government any optical disc, article or thing in relation to which, or by means of which, the offence was committed.

(2) Any forfeiture of optical discs, articles or things under subsection (1) is in addition to any penalty or punishment that the court may impose for the offence committed.

PART 5

OFFENCES AND PENALTIES

Penalty for offences under Parts 2 and 3

22. Any person who is guilty of an offence under Part 2 or 3 shall be liable on conviction —

- (a) in the case of a body corporate — to a fine not exceeding \$200,000 and, in the case of a second or subsequent offence, to a fine not exceeding \$400,000; and
- (b) in any other case — to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a second or subsequent offence, to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 2 years or to both.

Offences with respect to information

23.—(1) Any person who provides or causes to be provided any false or misleading information in any application, record or other document for any purpose under this Act shall be guilty of an offence.

(2) Any person who —

- (a) provides or causes to be provided to any authorised officer or police officer any false or misleading particulars, information or statement in respect of any matter which such officer requires to be given under this Act;
- (b) refuses to answer or gives a false answer to any question put to the person by any authorised officer or police officer for the purpose of obtaining any particulars, information or statement under this Act; or
- (c) fails or refuses to provide or produce any record, book, accounts or document as may be required by any authorised officer or police officer,

shall be guilty of an offence.

(3) Any person who is guilty of an offence under subsection (1) or (2) shall be liable on conviction —

- (a) in the case of a body corporate — to a fine not exceeding \$100,000 and, in the case of a second or subsequent offence, to a fine not exceeding \$200,000; and
- (b) in any other case — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent offence, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both.

Obstruction, etc., of officers

24. Any person who obstructs, impedes, assaults or interferes with any authorised officer or police officer in the performance of his or her duties under this Act shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of a body corporate — to a fine not exceeding \$100,000 and, in the case of a second or subsequent offence, to a fine not exceeding \$200,000; and
- (b) in any other case — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 6 months or to both and, in the case of a second or subsequent offence, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both.

Offences by bodies corporate, etc.

25.—(1) Where an offence under this Act committed by a body corporate is proved —

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on his or her part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

(a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any neglect on the partner's part, the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

“officer” —

(a) in relation to a body corporate, means any director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(6) Without limiting section 31(1), the Minister may make regulations for the application of any provision of this section, with any modifications that the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

Composition of offences

26. The Registrar may, in his or her discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding \$10,000.

PART 6

MISCELLANEOUS

Protection from personal liability

27. No suit or other legal proceedings shall lie personally against any authorised officer, police officer or other person acting under the direction of any authorised officer or police officer for anything which is in good faith done or intended to be done in the execution or purported execution of this Act.

Jurisdiction of court

28. Despite any provision to the contrary in the Criminal Procedure Code 2010, a District Court has jurisdiction to try any offence under this Act and has power to impose the full penalty or punishment in respect of the offence.

General exemption

29.—(1) The Minister may, by order in the *Gazette*, exempt any person or class of persons from all or any of the provisions of this Act, subject to any terms or conditions that the Minister may impose.

(2) An exemption granted under subsection (1) may be revoked at any time.

Amendment of Schedule

30.—(1) The Minister may by order in the *Gazette*, add to, vary or amend the whole or any part of the Schedule.

(2) Any order made under subsection (1) must be presented to Parliament as soon as possible after publication in the *Gazette*.

Regulations

31.—(1) The Minister may make regulations for carrying out the purposes and provisions of this Act.

(2) Without limiting subsection (1), regulations may be made —

- (a) to prescribe the forms to be used and the information or documents to be furnished for any of the purposes of this Act;
- (b) to prescribe the procedure for making applications for the grant or renewal of licences, the terms or conditions to be attached to the licences and the procedure in connection with appeals;
- (c) for or with respect to the grant, renewal, surrender, suspension and cancellation of licences;
- (d) to prescribe the fees to be paid under this Act and the manner of payment of such fees;
- (e) to prescribe the form of the register to be kept by the Registrar, and the procedure and other matters relating to the establishment and maintenance of the register and to the inspection of and taking of extracts from the register;
- (f) to prescribe the form of records to be kept and maintained by the licensee, the information to be recorded and the submission of such records;
- (g) for or with respect to the conduct of any person connected with the business of manufacturing optical discs; and
- (h) to provide for any matter which is required or permitted to be prescribed under this Act, or which is necessary or expedient to be prescribed to give effect to this Act.

THE SCHEDULE

Sections 2 and 30(1)

MEDIA AND ARTICLES

1. Compact discs (CD), including compact discs-read only memory (CD-ROM).
2. Digital video discs (DVD), including digital video discs-read only memory (DVD-ROM).
3. Video compact discs (VCD).
4. Master discs.
5. Stampers.

LEGISLATIVE HISTORY
MANUFACTURE OF OPTICAL DISCS
ACT 2004

This Legislative History is a service provided by the Law Revision Commission on a best-efforts basis. It is not part of the Act.

1. Act 25 of 2004 — Manufacture of Optical Discs Act 2004

Bill	:	23/2004
First Reading	:	19 May 2004
Second and Third Readings	:	15 June 2004
Commencement	:	30 July 2004

2. 2005 Revised Edition — Manufacture of Optical Discs Act (Chapter 170C)

Operation	:	31 July 2005
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3. Act 3 of 2013 — Computer Misuse (Amendment) Act 2013

(Amendments made by section 5 read with item 5 of the Schedule to the above Act)

Bill	:	36/2012
First Reading	:	12 November 2012
Second and Third Readings	:	14 January 2013
Commencement	:	13 March 2013 (section 5 read with item 5 of the Schedule)

4. Act 9 of 2018 — Cybersecurity Act 2018

(Amendments made by section 50(5) of the above Act)

Bill	:	2/2018
First Reading	:	8 January 2018
Second and Third Readings	:	5 February 2018
Commencement	:	31 August 2018 (section 50(5))

Abbreviations

C.P.	Council Paper
G.N. No. S (N.S.)	Government Notification Number Singapore (New Series)
G.N. No.	Government Notification Number
G.N. No. S	Government Notification Number Singapore
G.N. Sp. No. S	Government Notification Special Number Singapore
L.A.	Legislative Assembly
L.N.	Legal Notification (Federal/Malaysian Subsidiary Legislation)
M. Act	Malayan Act/Malaysia Act
M. Ordinance	Malayan Ordinance
Parl.	Parliament
S.S.G.G. (E) No.	Straits Settlements Government Gazette (Extraordinary) Number
S.S.G.G. No.	Straits Settlements Government Gazette Number

COMPARATIVE TABLE
MANUFACTURE OF OPTICAL DISCS
ACT 2004

This Act has undergone renumbering in the 2020 Revised Edition. This Comparative Table is provided to help readers locate the corresponding provisions in the last Revised Edition.

2020 Ed.	2005 Ed.
<i>[Omitted as spent]</i>	32—(1)
<i>[Omitted as spent]</i>	(2)
<i>[Omitted as spent]</i>	(3)