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The following Act was passed by Parliament on 15th June 2004 and assented to by the President on 24th June 2004:—

MANUFACTURE OF OPTICAL DISCS ACT 2004

(No. 25 of 2004)

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REPUBLIC OF SINGAPORE

No. 25 of 2004.

I assent.



S R NATHAN
President
24th June 2004.

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

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART I
PRELIMINARY

Short title and commencement

1. This Act may be cited as the Manufacture of Optical Discs Act 2004 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

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” shall 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 he may consider necessary for the purposes of this Act.

(2) The Registrar shall be 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 shall 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) shall be deemed to be public servants for the purposes of the Penal Code (Cap. 224).

PART II**LICENSING, ETC****Need for licence to manufacture optical discs**

4.—(1) Subject to the provisions of this Act, no person shall 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 shall be 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 shall 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 notice in writing require the applicant to furnish such additional documents or information as the Registrar considers necessary.

(3) Where any additional document or information required under subsection (2) is not furnished by the applicant within the time specified in the notice or such longer period as may be granted by the Registrar, the application shall be 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 prejudice to the generality of subsection (1), the Registrar may refuse to grant or renew a licence if he is satisfied that —

- (a) the applicant, or any person 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 person who is or is to be a director, manager, secretary or other similar officer of the applicant, has furnished 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 shall assign to the licensee a manufacturer's code which shall 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 such terms or conditions as he thinks fit.

Form and duration of licence

8. Every licence shall be in such form as may be determined by the Registrar and, unless sooner cancelled, shall be 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 notice in writing add to, vary or revoke any term or condition of the licence.

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

- (a) give the licensee notice in writing of his intention to do so; and
- (b) give the licensee an opportunity to make written representations, within the time specified in the notice or such longer period as may be 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 notice in writing, suspend or cancel a licence if he is satisfied that —

- (a) there exists a ground on which he 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;

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- (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 shall, before suspending or cancelling a licence under subsection (1) —
- (a) give the licensee notice in writing of his intention to do so; and
- (b) give the licensee an opportunity to make written representations, within the time specified in the notice or such longer period as may be 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) shall take 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 his licence by forwarding it to the Registrar with a written notice of its surrender.

(2) The surrender shall take 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 shall establish and maintain a register of the licences granted under this Act in such form and manner as he thinks fit.

(2) The Registrar shall make the register available for public inspection subject to such terms or conditions as he considers appropriate.

Maintenance of records

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

(2) The records referred to in subsection (1) shall be —

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

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

(3) A licensee shall submit such records, or furnish such other documents or information, as may be 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 of the date on which the person is notified of the decision or such longer period as the Minister may allow.

(2) The Minister may confirm, vary or reverse the decision of the Registrar appealed against, or give such directions in the matter as the Minister thinks fit.

(3) The decision of the Minister under subsection (2) shall be final.

PART III

MANUFACTURER'S CODE

Optical discs to be marked with manufacturer's code

15.—(1) Subject to subsection (2), every licensee shall mark, or cause to be marked, each optical disc manufactured by him with the

manufacturer's code assigned to him 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 the generality of 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 shall be a defence for the person charged to prove that he acted without intent to deceive or defraud.

PART IV
ENFORCEMENT

Powers of arrest and investigation

18.—(1) Any authorised officer or police officer may arrest without warrant any person whom he 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 a seizable offence conferred on a police officer by the Criminal Procedure Code (Cap. 68) in any case relating to the commission of an offence under this Act.

(3) Every offence under this Act shall be deemed to be a seizable offence within the meaning of the Criminal Procedure Code.

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 thereat;
- (b) require the furnishing 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 to be or to contain, or to be likely to be or to contain, evidence of an offence under this Act;
- (e) make such examination or inquiry as may be necessary to ascertain whether the provisions of this Act have been complied with;

(f) exercise such other powers as may be reasonable and necessary for giving effect to the provisions of this Act.

(2) A licensee shall, 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 such exemplars of optical discs as 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) shall have access to, and may inspect and check the operation of, any computer system and any associated apparatus or material which he 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 with such reasonable technical and other assistance as he 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 same meaning as in section 2(1) of the Computer Misuse Act (Cap. 50A).

Forfeiture of optical discs, etc.

21.—(1) Where any person has been convicted of an offence under this Act, the court shall, 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) shall be in addition to any penalty or punishment that the court may impose for the offence committed.

PART V

OFFENCES AND PENALTIES

Penalty for offences under Parts II and III

22. Any person who is guilty of an offence under Part II or III 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 furnishes or causes to be furnished 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) furnishes or causes to be furnished 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 him 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 furnish 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 of officers

24. Any person who obstructs, impedes, assaults or interferes with any authorised officer or police officer in the performance of his 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 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) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he 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 his 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 prejudice to the generality of section 31(1), the Minister may make regulations for the application of any provision of this section, with such modifications as he 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 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 VI

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. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

General exemption

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

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

Amendment of Schedule

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

(2) Any order made under subsection (1) shall 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 prejudice to the generality of 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.

Transitional and savings provisions

32.—(1) Any person who —

- (a) is engaged in the manufacture for sale or other commercial purpose of optical discs immediately before the date of commencement of this Act; and
- (b) intends to continue such manufacture of optical discs on and after such date,

shall, not later than 6 months from that date, apply to the Registrar for a licence under this Act.

(2) Pending the decision of the Registrar on the application for a licence referred to in subsection (1), the applicant shall be deemed to be licensed under this Act and no action shall be taken against him for engaging in the manufacture of optical discs without a licence.

(3) Where a licence is not granted by the Registrar under section 7(1) to the applicant referred to in subsection (2), the applicant shall cease to be deemed to be licensed under this Act from the date he is notified of the decision of the Registrar or, if there is an appeal under section 14, the date the decision is confirmed by the Minister.

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.
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