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**COPYRIGHT ACT
(CHAPTER 63)**

**COPYRIGHT (BORDER ENFORCEMENT MEASURES)
(AMENDMENT) REGULATIONS 2019**

In exercise of the powers conferred by section 202 of the Copyright Act, the Minister for Law makes the following Regulations:

Citation and commencement

1. These Regulations are the Copyright (Border Enforcement Measures) (Amendment) Regulations 2019 and come into operation on 21 November 2019.

Amendment of regulation 2

2. Regulation 2 of the Copyright (Border Enforcement Measures) Regulations (Rg 5) (called in these Regulations the principal Regulations) is amended by inserting, immediately after the definitions of “authorised officer”, “copyright material” and “Director-General”, the following definition:

“ “dealer” means the importer, exporter or consignee of the copies seized under section 140LA of the Act;”.

Amendment of regulation 3

3. Regulation 3 of the principal Regulations is amended —

(a) by deleting paragraphs (1) and (2) and substituting the following paragraphs:

“(1) A notice to the Director-General under section 140B(1) of the Act, or that provision as applied by section 254B of the Act, must be supported by the following documents and information:

(a) a statutory declaration that the particulars in the notice are true;

(b) where the notice is given by a person as agent for the owner or a licensee of the copyright in the copyright material, or the performer of the performance embodied in the unauthorised recording, evidence of the authority of the person giving the notice.

(2) The notice must be accompanied by the fee prescribed in the Copyright (Border Enforcement Measures Fees) Regulations 2019 (G.N. No. S 744/2019).”; and

(b) by deleting the regulation heading and substituting the following regulation heading:

“Notice under section 140B(1) of Act, etc.”.

Amendment of regulation 4

4. Regulation 4 of the principal Regulations is amended by deleting the regulation heading and substituting the following regulation heading:

“Time and manner of giving notice under section 140B(1) of Act, etc.”.

Amendment of regulation 5

5. Regulation 5 of the principal Regulations is amended —

(a) by inserting, immediately after the words “A person who has given a notice to the Director-General” in paragraph (1), the words “under section 140B(1) of the Act”;

(b) by inserting the word “and” at the end of paragraphs (1)(b) and (2)(b);

(c) by deleting the word “; and” at the end of paragraphs (1)(c) and (2)(c) and substituting in each case a full-stop;

(d) by deleting sub-paragraph (d) of paragraphs (1) and (2);

(e) by inserting, immediately after the words “Where a notice is given to the Director-General” in paragraph (2), the words “under section 140B(1) of the Act as applied by section 254B of the Act”; and

(f) by deleting the regulation heading and substituting the following regulation heading:

“Further information and evidence for notice under section 140B(1) of Act, etc.”.

Deletion and substitution of regulation 6

6. Regulation 6 of the principal Regulations is deleted and the following regulation substituted therefor:

“Change in particulars of notice under section 140B(1) of Act, etc.

6. A person who has given a notice to the Director-General under section 140B(1) of the Act, or that provision as applied by section 254B of the Act, must notify the Director-General in writing of any change in the particulars specified in the notice or affecting the notice within 7 days of the change, and provide any document and information in relation to the change that the Director-General may reasonably require.”.

Amendment of regulation 7

7. Regulation 7 of the principal Regulations is amended —

(a) by deleting paragraph (a) and substituting the following paragraph:

“(a) any direction of the Director-General; or”; and

(b) by deleting the regulation heading and substituting the following regulation heading:

“Refusal to seize copies pursuant to notice under section 140B(1) of Act, etc.”.

Deletion and substitution of regulations 8 and 9

8. Regulations 8 and 9 of the principal Regulations are deleted and the following regulations substituted therefor:

“Period under section 140E(2)(a) of Act, etc., for instituting action for infringement of copyright

8. For the purposes of section 140E(2)(a) of the Act, or that provision as applied by section 254B of the Act, the prescribed period is 10 working days after the day specified in the notice mentioned in section 140E(1) of the Act.

Period under section 140E(6) of Act, etc., for extension of initial period

9. For the purposes of section 140E(6) of the Act, or that provision as applied by section 254B of the Act, the prescribed period is 10 working days after the end of the initial period mentioned in section 140E(6) of the Act.”.

Amendment of regulation 9A

9. Regulation 9A of the principal Regulations is amended —
- (a) by inserting, immediately after the word “importer”, the words “or exporter (as the case may be)”; and
 - (b) by deleting the regulation heading and substituting the following regulation heading:
“Written undertakings for forfeiture of seized copies by consent under section 140G(1) of Act, etc.”.

Deletion of regulation 9B

10. Regulation 9B of the principal Regulations is deleted.

Amendment of regulation 9C

11. Regulation 9C of the principal Regulations is amended —
- (a) by deleting the words “seized or detained copies” in paragraphs (1) and (2) and substituting in each case the words “seized copies”;
 - (b) by deleting the semi-colon at the end of paragraph (1)(b) and substituting a full-stop;
 - (c) by deleting sub-paragraphs (c) and (d) of paragraph (1);
 - (d) by deleting the words “importer, exporter or consignee (as the case may be)” in paragraphs (2) and (3) and substituting in each case the words “importer or exporter (as the case may be)”; and
 - (e) by deleting the regulation heading and substituting the following regulation heading:
“Disposal of seized copies forfeited by consent under section 140G(3) of Act, etc.”.

Deletion and substitution of regulation 10 and new regulations 11 to 19

12. Regulation 10 of the principal Regulations is deleted and the following regulations substituted therefor:

“Period under section 140LB(1) of Act, etc.

10. For the purposes of section 140LB(1) of the Act, or that provision as applied by section 254B of the Act, the prescribed period is 48 hours after the date of the written notice mentioned in section 140LA(3) of the Act, or that provision as applied by section 254B of the Act.

Notice under section 140LB(1) of Act, etc.

11.—(1) A notice to the Director-General under section 140LB(1) of the Act, or that provision as applied by section 254B of the Act, must be supported by the following documents and information:

- (a) a statutory declaration that the particulars in the notice are true;
- (b) where the notice is given by a person as agent for the owner of the copyright in the copyright material or the performer of the performance embodied in an unauthorised recording, evidence of the authority of the person giving the notice.

(2) The notice must be accompanied by the fee prescribed in the Copyright (Border Enforcement Measures Fees) Regulations 2019.

(3) The owner 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 under section 140LB(1) of Act, etc.

12. A notice to the Director-General under section 140LB(1) of the Act, or that provision as applied by section 254B of the Act, must be delivered to the Singapore Customs during such time as the office of the Singapore Customs is open for business.

Further information and evidence for notice under section 140LB of Act, etc.

13.—(1) A person who has given a notice to the Director-General under section 140LB(1) of the Act in relation to any copyright material must, as and when required by the Director-General, give to the Director-General any information and evidence within any time and in any form that the Director-General may require.

(2) The information and evidence mentioned in paragraph (1) must include such information and evidence as the Director-General may require to establish —

- (a) the subsistence of copyright in the copyright material;
- (b) the ownership of that copyright; and
- (c) that the copies that have been seized are copies of the copyright material to which section 140LA of the Act applies.

(3) A person who has given a notice under section 140LB(1) of the Act as applied by section 254B of the Act to the Director-General in relation to any unauthorised recording of a performance must, as and when required by the Director-General, give to the Director-General any information and evidence within any time and in any form that the Director-General may require.

(4) The information and evidence mentioned in paragraph (3) must include any information and evidence that 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; and
- (c) that the copies that have been seized are copies of an unauthorised recording of a performance to which section 140LA of the Act as applied by section 254B of the Act applies.

Change in particulars of notice under section 140LB(1) of Act, etc.

14. A person who has given a notice to the Director-General under section 140LB(1) of the Act, or that provision as applied by section 254B of the Act, must notify the Director-General in writing of any change in the particulars specified in the notice or affecting the notice within 7 days of the change, and provide any document and information in relation to the change that the Director-General may reasonably require.

Release of seized copies to dealer under section 140LB of Act, etc.

15. The Director-General may release to the dealer concerned the seized copies, in relation to which a notice has been given under section 140LB(1) of the Act, or that provision as applied by section 254B of the Act, if the person who gave the notice fails to comply with —

- (a) any direction of the Director-General; or
- (b) any provision of these Regulations.

Period under section 140LC(1)(a) of Act, etc., for instituting action for infringement of copyright

16. For the purposes of section 140LC(1)(a) of the Act, or that provision as applied by section 254B of the Act, the prescribed period is 10 working days after the day specified in the notice mentioned in section 140LC(1) of the Act.

Period for extension of initial period under section 140E(6) of Act as applied by section 140LC(2) of Act, etc.

17. The prescribed period for the purposes of —

- (a) section 140E(6) of the Act as applied by section 140LC(2) of the Act; and
- (b) the provisions mentioned in paragraph (a) as applied by section 254B of the Act,

is 10 working days after the end of the initial period mentioned in section 140E(6) of the Act.

Written undertakings for forfeiture of seized copies by consent under section 140LF(1) of Act, etc.

18. For the purposes of section 140LF(1) of the Act, or that provision as applied by section 254B of the Act, the prescribed written undertakings are that the dealer must —

- (a) propose an arrangement for the disposal of the seized copies for the Director-General's approval; and
- (b) dispose of the seized copies in accordance with an arrangement approved by the Director-General —
 - (i) within one month after the date of a notice given by the Director-General; and
 - (ii) under the supervision of an officer of customs.

Disposal of seized copies forfeited by consent under section 140LF(3) of Act, etc.

19.—(1) Upon forfeiture of the seized copies to the Government under section 140LF(3) of the Act, or that provision as applied by section 254B of the Act, the copies must be disposed of by the dealer in accordance with an arrangement approved by the Director-General —

(a) within one month after the date of a notice given by the Director-General; and

(b) under the supervision of an officer of customs.

(2) If the dealer does not dispose of the seized copies within the period mentioned in paragraph (1)(a), the Director-General must dispose of those copies in any manner that the Director-General deems fit.”.

Deletion of Schedule

13. The Schedule to the principal Regulations is deleted.

Miscellaneous amendments

14. The principal Regulations are amended —

(a) by inserting, immediately above regulation 1, the following Part heading:

“PART 1

PRELIMINARY”;

(b) by inserting, immediately above regulation 3, the following Part heading:

“PART 2

SEIZURE OF COPIES ON REQUEST”;

(c) by inserting, immediately above regulation 10, the following Part heading:

“PART 3

EX-OFFICIO SEIZURE OF COPIES”.

Transitional provisions

15.—(1) The principal Regulations, as amended by these Regulations, apply in relation to a notice —

- (a) that was given in accordance with section 140B of the Act, or that provision as applied by section 254B of the Act, before 21 November 2019;
- (b) pursuant to which copies of copyright material or unauthorised recording of a performance have yet to be seized before that date; and
- (c) that remained in force immediately before that date,

as if it were a notice given in accordance with section 140B of the Act, or that provision as applied by section 254B of the Act, on or after 21 November 2019.

(2) Despite these Regulations, the principal Regulations as in force immediately before 21 November 2019 continue to apply to a case where copies of copyright material were seized or detained under section 140B or 140LA of the Act, or those provisions as applied by section 254B of the Act, on or after 10 October 2018 but before 21 November 2019.

[G.N. No. S 556/2018]

Made on 5 November 2019.

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