
First published in the *Government Gazette*, Electronic Edition, on 10 March 2017 at 5 pm.

No. S 86

COPYRIGHT ACT (CHAPTER 63)

COPYRIGHT (EXCLUDED WORKS) ORDER 2017

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement
 2. Definitions
 3. Works to which section 261C(1)(a) of Act does not apply
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In exercise of the powers conferred by section 261D(2) of the Copyright Act, the Minister for Law makes the following Order:

Citation and commencement

1.—(1) This Order is the Copyright (Excluded Works) Order 2017 and is deemed to have come into operation on 1 January 2017.

(2) The period for which this Order is in force starts on 1 January 2017 and ends on 31 December 2020.

Definitions

2.—(1) In this Order —

“compliant MOOC course producer” means a MOOC course producer that has in place necessary preventive measures;

“cybersecurity professional” means a person who —

(a) is engaged in a legitimate course of study in the field of cybersecurity; or

(b) is employed or appropriately trained or experienced in that field;

“exempt educational institution” means —

- (a) a school or similar institution at which one or more of the following is provided:
 - (i) full-time primary education;
 - (ii) full-time secondary education;
 - (iii) full-time pre-university education;
- (b) a university;
- (c) a polytechnic;
- (d) the Institute of Technical Education, Singapore established under section 3 of the Institute of Technical Education Act (Cap. 141A); or
- (e) any other tertiary educational institution;

“MOOC course producer” means a non-profit organisation that produces massive open online courses to be conducted through online platforms (whether or not it also conducts the courses);

“necessary preventive measures”, in relation to a MOOC course producer, means —

- (a) if the MOOC course producer also conducts the course that it produces, all of the following measures:
 - (i) limiting transmissions of each cinematograph film used in the course to the extent technologically feasible to students;
 - (ii) instituting copyright compliance policies;
 - (iii) providing information to faculty, students, employees and staff members that describes the laws of Singapore relating to copyright;
 - (iv) applying technological measures to prevent students from retaining each cinematograph film used in the course for a longer period than the duration of the course, or disseminating the cinematograph film to others at any time

without authorisation from the MOOC course producer;

- (b) if the MOOC course producer does not conduct the course that it produces, measures to verify that the person who conducts the course has in place the measures in paragraph (a).

(2) For the purposes of paragraph 3(a), a dongle is treated as obsolete if —

- (a) it is no longer being manufactured;
 (b) it is no longer commercially available; or
 (c) its repair is no longer commercially available.

(3) For the purposes of paragraph 3(b) —

- (a) a computer program or video game is treated as being in an obsolete format if its contents can only be rendered perceptible by means of a machine or system that —
- (i) is no longer being manufactured; or
 (ii) is no longer commercially available; and
- (b) a technological access control measure is treated as obsolete if —
- (i) a statement indicating that support for the technological access control measure has ended is issued by the copyright owner of the computer program or video game or the copyright owner's authorised representative; or
 (ii) support for the technological access control measure is no longer available, or has been discontinued for at least 6 months and has not since been restored.

Works to which section 261C(1)(a) of Act does not apply

3. Section 261C(1)(a) of the Act does not apply to the following works:

- (a) any computer program to which access is controlled by means of an obsolete dongle that is damaged or defective;

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- (b) any computer program or video game that —
- (i) is in an obsolete format and can only be accessed using the original medium or hardware in or with which it was designed to be used or operated; or
 - (ii) can only be accessed by using an authentication process supplied by the technological access control measure that has been applied to the computer program or video game, and the measure is obsolete, where circumvention of the technological access control measure that has been applied to the computer program or video game is for the purpose of accessing the computer program or video game for ordinary use;
- (c) any literary or dramatic work —
- (i) that is in an electronic format; and
 - (ii) in respect of which the technological access control measure has been applied to all existing electronic editions of the work (including any digital text edition made available by an institution assisting persons with reading disabilities) so as to —
 - (A) prevent the operation of the read-aloud function of the literary work; or
 - (B) prevent any specialised assistive device or computer software from converting the text into an accessible format;
- (d) any cinematograph film in the library of an exempt educational institution that conducts courses in film or media studies, where circumvention of the technological access control measure that has been applied to the cinematograph film is carried out by —
- (i) any film or media studies lecturer of the exempt educational institution; or
 - (ii) any employee or staff member of the exempt educational institution acting on the instructions of a film or media studies lecturer of the institution,

for the purpose of making compilations of portions of the film for educational use in a classroom;

- (e) any cinematograph film in the collection of a compliant MOOC course producer, where circumvention of the technological access control measure that has been applied to the film is carried out by any employee or staff member of the compliant MOOC course producer for the purpose of making compilations of portions of the work for educational use in a massive open online course on film or media studies;
- (f) any cinematograph film where circumvention of the technological access control measure that has been applied to it is carried out in good faith by any person solely for the purpose of using a short portion of the film for —
 - (i) criticism or review; or
 - (ii) reporting the news,in the making of a documentary;
- (g) any computer program, work or other subject matter in digital form, sound recording or cinematograph film, where circumvention of the technological access control measure that has been applied to it does not contravene any other written law and is carried out —
 - (i) in good faith by a cybersecurity professional or a person acting on the instruction of a cybersecurity professional; and
 - (ii) for the purpose of research on cybersecurity;
- (h) any computer program used in any essential or emergency system where circumvention of the technological access control measure that has been applied to the computer program is solely for the purpose of enabling the replacement or repair of the computer program.

Made on 9 March 2017.

NG HOW YUE
*Permanent Secretary,
Ministry of Law,
Singapore.*

[LAW 44/001/047; AG/LEGIS/SL/63/2015/1 Vol. 1]