

Copyright (Amendment) Regulations 2005

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No. S 221

COPYRIGHT ACT

(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