

Copyright (Network Service Provider) Regulations 2005

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THE SCHEDULE

COPYRIGHT ACT
(CHAPTER 63)

COPYRIGHT (NETWORK SERVICE PROVIDER) REGULATIONS 2005

In exercise of the powers conferred by sections 193DE, 202 and 252CE 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 (Network Service Provider) Regulations 2005 and shall come into operation on 18th April 2005.

Definitions

2. In these Regulations, unless the context otherwise requires —

“complainant” means a person who furnishes a notice under and in accordance with section 193C (2) (b), 193D(2) (b) (iii) or (4) (b) (iii), 252B(2) (b) or 252C(2) (b) (iii) or (4) (b) (iii) of the Act;

“electronic copy” has the same meaning as in section 193A(1) of the Act;

“electronic recording” has the same meaning as in section 246(1) of the Act;

“material” has the same meaning as in section 193A(1) of the Act;

“network service provider” means a person who —

(a) provides services relating to, or provides connections for, the transmission or routing of data; or

(b) provides, or operates facilities for, online services or network access;

“originating network”, in relation to an electronic copy of any material or an electronic recording of any performance, means a network on which the electronic copy or electronic recording, as the case may be, is made available;

“performance” has the same meaning as in section 246(1) of the Act;

“primary network”, in relation to a network service provider, refers to a network controlled or operated by or for the network service provider;

“respondent” means a person who —

(a) is notified under section 193DA (2)(a) or 252CA(2)(a) of the Act of

the removal of, or the disabling of access to, any electronic copy of any material or any electronic recording of any performance, as the case may be, made available by him on a network; or

- (b) furnishes a notice under section 193DA (2)(b) or 252CA(2)(b) of the Act in accordance with the requirements of that provision.

Notice under section 193C (2) (b) or 193D (2) (b) (iii) or (4) (b) (iii) of Act

3.—(1) A notice under section 193C (2)(b) or 193D(2)(b)(iii) or (4)(b)(iii) of the Act shall be furnished to a network service provider —

- (a) by leaving the notice at, or sending the notice by registered post to, the address referred to in regulation 5(1)(c);
- (b) where the network service provider has provided any facsimile number under regulation 5(1)(d), by transmitting the notice to the network service provider by facsimile transmission at that facsimile number; or
- (c) by transmitting the notice to the network service provider by electronic mail at the electronic mail address referred to in regulation 5(1)(d).

(2) A notice under section 193C (2)(b) or 193D(2)(b)(iii) or (4)(b)(iii) of the Act shall be in, or substantially in accordance with, Form A in the Schedule, shall be signed by the complainant and shall contain the following:

- (a) the name and address of the complainant;
- (b) where the complainant is acting on behalf of a copyright owner or an exclusive licensee, the name and address of the copyright owner or exclusive licensee;
- (c) where the complainant is not resident in Singapore, the complainant's address for service in Singapore;
- (d) a telephone number, a facsimile number (if any) and an electronic mail address at which the complainant can be contacted;
- (e) sufficient particulars to enable the network service provider to —
 - (i) identify the material in respect of which copyright is alleged to have been infringed;
 - (ii) identify and locate the electronic copy alleged to be an infringing copy of the material referred to in sub-paragraph (i), including the online location of that electronic copy; and

- (iii) where the notice is a notice under section 193D (4)(b)(iii) of the Act, identify and locate the means by which the network service provider is alleged to have referred or linked a user of any network to the online location of the electronic copy referred to in sub-paragraph (ii);
- (f) where the electronic copy referred to in sub-paragraph (e)(ii) is on the network service provider's primary network, a statement that the complainant requires the network service provider to remove or disable access to that electronic copy;
- (g) where the electronic copy referred to in sub-paragraph (e)(ii) is on a network other than the network service provider's primary network, a statement that the complainant requires the network service provider to disable access to that electronic copy;
- (h) a statement that the complainant, in good faith, believes that the electronic copy referred to in sub-paragraph (e)(ii) is an infringing copy of the material referred to in sub-paragraph (e)(i);
- (i) where the notice is a notice under section 193C(2)(b) of the Act, a statement —
 - (i) that another electronic copy of the material referred to in sub-paragraph (e)(i) (referred to in this sub-paragraph as the originating electronic copy) was made available on a network (referred to in this sub-paragraph as the originating network);
 - (ii) that the electronic copy referred to in sub-paragraph (e)(ii) is a cached copy of the originating electronic copy; and
 - (iii) that —
 - (A) the originating electronic copy has been removed from the originating network or access to the originating electronic copy on the originating network has been disabled; or
 - (B) a court has ordered that the originating electronic copy be removed from the originating network or that access to the originating electronic copy on the originating network be disabled;
- (j) a statement that the information in the notice is accurate;

- (k) a statement that the complainant —
 - (i) is the owner or exclusive licensee of the copyright in the material referred to in sub-paragraph (e)(i); or
 - (ii) is authorised to act on behalf of the owner or exclusive licensee of the copyright in the material referred to in sub-paragraph (e)(i); and
- (l) a statement that the complainant submits to the jurisdiction of the courts in Singapore for the purposes of any proceedings relating to any offence under section 193DD(1)(a) of the Act or any liability under section 193DD(1)(b) of the Act.

Conditions under section 193C (2) (c) of Act

4. For the purposes of section 193C(2)(c) of the Act, the prescribed conditions are as follows:

- (a) if the material is made available online by a person other than the network service provider, and that person has in effect any condition that another person must meet in order to have access to the material, such as a condition based on payment of a fee or provision of a password or other information, the network service provider shall permit access to the cached material on his primary network in significant part —
 - (i) only to users of the primary network or another network who have met those conditions; and
 - (ii) only in accordance with those conditions;
- (b) the network service provider complies with rules concerning the refreshing, reloading or other updating of the cached material as specified by the person making available the material online in accordance with any generally accepted industry standard data communications protocol for the network through which that person makes the material available, if those rules are not used by that person to unreasonably impair the intermediate storage of the cached material; and
- (c) the network service provider does not interfere with the ability of technology used at the originating network to obtain information about the use of any material made available on the originating network, if that technology —