

Copyright (Border Enforcement Measures) Regulations

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THE SCHEDULE Form 1

Legislative History

**COPYRIGHT ACT
(CHAPTER 63, SECTION 140B(8))**

COPYRIGHT (BORDER ENFORCEMENT MEASURES) REGULATIONS

[16th April 1998]

Citation

1. These Regulations may be cited as the Copyright (Border Enforcement Measures) Regulations.

Definition

2. For the purposes of these Regulations, “authorised officer”, “copyright material” and “Director-General” have the same meaning respectively as in section 140A of the Act.

Notice under section 140B(1), or section 140B(1) read with section 254B, of Act

3.—(1) A notice to the Director-General under section 140B(1), or section 140B(1) read with section 254B, of the Act shall —

- (a) where the notice is given by the owner or licensee of the copyright in the copyright material, be in Form 1 in the Schedule; and
- (b) where the notice is given by the performer of a performance embodied in an unauthorised recording, be in Form 2 in the Schedule.

(2) The notice shall be accompanied by —

- (a) a statutory declaration that the particulars in the notice are correct; and
- (b) the fee of \$200 specified in item (1) in the Schedule to the Fees (Copyright Act — Border Enforcement Measures) Order (Cap. 106, O 40A).

(3) The owner or licensee 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

4. A notice to the Director-General under section 140B(1), or section 140B(1) read

with section 254B, of the Act shall be delivered to the Singapore Customs —

- (a) during such time as the office of the Singapore Customs is open for business; and
- (b) at such time as is reasonably possible for an authorised officer to take any action under the Act in relation to the notice.

Further information and evidence

5.—(1) A person who has given a notice to the Director-General in relation to any copyright material shall, as and when required by the Director-General, give to the Director-General such information and evidence within such time and in such form as the Director-General may require including 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;
- (c) that goods to be seized, or which have been seized, are copies of the copyright material to which section 140B of the Act applies; and
- (d) where the notice was given by a person as agent for the owner or licensee of the copyright, the authority of the person giving the notice.

(2) Where a notice is given to the Director-General in relation to any unauthorised recording of a performance, the person who has given the notice shall, as and when required by the Director-General, give to the Director-General such information and evidence within such time and in such form as the Director-General may require including such information and evidence as 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;
- (c) that goods to be seized, or which have been seized, are copies of an unauthorised recording of a performance to which section 140B read with section 254B of the Act applies; and
- (d) where the notice was given by a person as agent for the performer of the performance, the authority of the person giving the notice.

Change in particulars

6. A person who has given a notice to the Director-General shall 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 further notice shall be given as the Director-General may require.

Refusal to seize

7. An authorised officer may refuse to seize copies of any copyright material or copies of an unauthorised recording of a performance to which a notice under section 140B(1), or section 140B(1) read with section 254B, of the Act relates if the person who has given the notice fails to comply with —

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

Period for instituting action for infringement of copyright

8. For the purposes of section 140E(3) of the Act, the prescribed period is 10 working days.

Period for extension of retention period

9. For the purposes of section 140E(6) of the Act, the prescribed period is 10 working days after the end of the retention period mentioned in that subsection.

Prescribed period under section 140LA(3) of Act

10. For the purposes of section 140LA(3) of the Act, the prescribed period shall be —

- (a) 48 hours after the Director-General has given the owner of the copyright in the copyright material or the performer of the performance embodied in an unauthorised recording, as the case may be, the written notice referred to in section 140LA(2) of the Act; or
- (b) where —
 - (i) the detained copies of copyright material or unauthorised recording of a performance, as the case may be, are copies that are to be exported from Singapore or goods in transit that are consigned to a person with a commercial or physical presence in Singapore; and
 - (ii) the owner of the copyright or the performer of the performance embodied in the unauthorised recording, as the case may be, has complied with section 140LA(3)(b)(iii), or section 140LA(3)(b)(iii) read with section 254B, of the Act within the period referred to in paragraph (a),

10 working days after the Director-General has given the owner of the copyright in the copyright material or the performer the written notice referred to in section 140LA(2) of the Act.

THE SCHEDULE

FORM 1