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## **COPYRIGHT ACT**

### **(CHAPTER 63, SECTIONS 56, 57 AND 202)**

### **COPYRIGHT (RECORDS ROYALTY SYSTEM) REGULATIONS**

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**[10th April 1987]**

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## **COPYRIGHT ACT**

### **(CHAPTER 63, SECTIONS 56, 57 AND 202)**

### **COPYRIGHT (RECORDS ROYALTY SYSTEM) REGULATIONS**

**[10th April 1987]**

#### **Citation**

**1.** These Regulations may be cited as the Copyright (Records Royalty System) Regulations.

#### **Definition**

**2.** In these Regulations, unless the context otherwise requires, "address for service in Singapore" means an address at which service may be effected in accordance with regulation 3.

#### **Service of documents**

**3.—(1)** A document that is required or permitted by these Regulations to be served on a person in Singapore may be served on the person —

(a) if the person is a corporation — by delivering the document personally to the manager or secretary of the corporation, or if the corporation has a registered office under any written law relating to companies in Singapore, by leaving it at that office or by sending it by post addressed to the corporation at that office or, if the corporation does not have such a registered office, by sending it by post addressed to the corporation at its principal place of business in Singapore; or

(b) if the person is not a corporation — by delivering the document to the person personally or by sending it by post addressed to the person at the address of the place of residence or business in Singapore of the person last known to the person sending the document.

(2) In the application of paragraph (1) in relation to a notice under regulations 4 and 7, a reference to post shall be read as a reference to registered post.

#### **Notice of intended making of record of musical work**

**4.—(1)** For the purposes of section 56 (1) (b) of the Act, the prescribed notice of the intended making of a record of a musical work shall be a written notice given in accordance with this regulation by the person intending to make the record (referred to in these Regulations as the manufacturer).

(2) The notice shall be given not less than 15 days before any record on which the work to which the notice refers is reproduced is delivered to a purchaser or supplied for the purpose of retail sale.

(3) Subject to paragraphs (4) and (5), if the owner of the copyright in the musical work resides or carries on business in Singapore, the notice shall be given by service of the notice on the owner.

(4) Subject to paragraph (5), if the owner of the copyright in the musical work has appointed a person residing or carrying on business in Singapore as his agent for the purpose of receiving notices under section 56 of the Act, the notice may be given by service of the notice on the agent.

(5) If the manufacturer is unable, by reasonable inquiry, to ascertain the name, or an address for service in Singapore, of the owner of the copyright in the musical work or of a person appointed by the owner as his agent for the purpose of receiving notices under section 56 of the Act, the notice shall be given by publication of the notice in the *Gazette*.

(6) The notice given in accordance with paragraph (3) or (4) shall —

(a) state that a person specified in the notice intends to make in Singapore a record of the musical work or part thereof and the address at which the person intends to make such records;

(b) state the address of the place of residence or business of the manufacturer;

(c) state the title, if any, of the work, and if that title is not sufficient to enable the work to be identified, contain a description of the work that is sufficient to enable the work to be identified;

(d) if the record is to comprise a performance of the work in which words are sung, or are spoken incidentally to or in association with the music — state that fact;

(e) if the identity of the author or publisher of the work is known to the person intending to make the record — state the name of the author or publisher;

(f) set out any particulars known to the manufacturer that are necessary to enable the owner of the copyright to identify such a previous record of the musical work as is referred to in section 56 (1) (a) of the Act;

(g) state whether the record that is intended to be made is to be a disc, tape, paper or other device;

(h) state the trade description that is intended to be placed on the label of the record and the proposed trade prefix and catalogue number of the record;

(i) state the earliest date on which it is proposed to offer or expose the record for sale to the public in Singapore; and

(j) state the proposed selling price to the public of the record.

(7) Where the notice is to be given by being published in the *Gazette* in accordance with paragraph (5), the notice shall contain the information referred to in paragraph (6) (a), (b), (c), (e) and (f) and shall state an address of a place in Singapore at which the information referred to in paragraph (6) (d), (g), (h), (i) and (j) may be obtained.

(8) Upon personal or written application at the address specified in a notice referred to in paragraph (7) by the owner of the copyright in the musical work or a person appointed by him as his agent for the purpose of making such an application, the manufacturer shall furnish that information to the owner or agent.

#### **Payment of royalty by manufacturer of records of musical works**

**5.** For the purposes of section 56 (1) (d) of the Act, the royalty payable to the owner of the copyright in a musical work in respect of a record of that work shall be paid in such manner and at such time as is agreed between the owner of the copyright and the manufacturer of the record or, in the absence of any agreement, shall be paid in accordance with regulations 6 to 10.

#### **Payment of royalty by affixing adhesive labels**

**6.—(1)** If, within 7 days of the date of the notice given in accordance with regulation 4, the owner of the copyright informs the manufacturer, by notice in writing sent by registered post, of some convenient place in Singapore from which adhesive labels can be obtained, the manufacturer shall by notice in writing specify the number and denomination of the labels he requires and at the same time tender a sum equivalent to the amount of royalty represented by the labels required.

(2) If, within 7 days of receipt of the notice required by paragraph (1) to be given by the manufacturer, the copyright owner supplies the labels required, the manufacturer shall not —

(a) deliver to a purchaser; or

(b) otherwise supply for the purpose of its being sold by retail,

any record made by him to which the notice prescribed in regulation 4 refers unless there is attached —

(i) to the record; or

(ii) if the type of record is such that it is not reasonably practicable to attach an adhesive label to it, to the container in which the record is intended to be delivered to a retail purchaser,

a label of a kind referred to in this regulation purchased from the copyright owner.

(3) Where the owner of the copyright in a musical work makes available, for purchase by manufacturers of records of that work, labels of a kind referred to in this regulation, the affixing to a record of that work or the container of the record in accordance with this regulation of the label or labels purchased from the owner of the copyright shall, for the purposes of section 56 (3) (b) of the Act, be deemed to constitute payment, in respect of that record, of the royalty referred to in section 56 (1) (d).

(4) The label or labels shall be affixed to the record, or to the container of the record, before the record is sold or supplied by the manufacturer.

(5) Subject to any agreement to the contrary between the owner of the copyright and the manufacturer, the label or labels shall specify an amount that is, or amounts that in the aggregate are, equal to the royalty payable to the owner of the copyright in respect of the record of the work.

(6) A label shall be an adhesive paper label, square in shape, bearing a design enclosed within a circle and

having a side of not more than 12 millimetres in length.

(7) A label —

(a) shall not be in a form that resembles a postage stamp; and

(b) shall not bear —

(i) an effigy of any person; or

(ii) any word, mark or design of such a nature as to suggest that the label was issued by, or under the authority of the Government for the purpose of specifying a tax payable to the Government.

(8) For the purposes of this regulation, “the date of the notice given in accordance with regulation 4” means —

(a) in cases where the notice is required to be sent by registered post, the date on which the notice would in the ordinary course of post be delivered; or

(b) in cases where the notice is required to be advertised in the *Gazette*, the date of such advertisement.

**Payment of royalty where owner of copyright fails to supply adhesive labels**

**7.—(1)** For the purposes of section 56 (1) (d) of the Act, this regulation shall apply in relation to the payment of a royalty by the manufacturer to the owner of the copyright in a musical work or musical works, other than an owner in relation to whom regulation 8 or 9 applies.

(2) Where —

(a) the manufacturer serves notice in writing on the owner of the copyright in accordance with regulation 4; and

(b) the owner of the copyright refuses or fails to comply with regulation 6 (1) or (2) within the time specified therein,

the manufacturer may, during the period ascertained in accordance with paragraph (6), deliver to a purchaser or otherwise supply for the purpose of retail sale any record to which the notice relates without complying with regulation 6 (2).

(3) The royalty payable by the manufacturer to the owner of the copyright in respect of records of the work sold or supplied by the manufacturer during the period ascertained in accordance with paragraph (6) shall be paid as provided by this regulation.

(4) The manufacturer shall pay the amount of the royalty in respect of the records of the work or works sold or supplied by the manufacturer during the period ascertained in accordance with paragraph (5) into a special account and hold the moneys in trust for the owner of the copyright.

(5) Before the expiration of 28 days after the period ascertained in accordance with paragraph (6), the manufacturer shall —

(a) serve on the owner of the copyright a statement in writing specifying the number of records sold or supplied by the manufacturer during that period that include a musical work or musical works the copyright in which is owned by the owner (other than any records in respect of which royalties have already been paid to the owner otherwise than in pursuance of this regulation) and specifying, in relation to each such record —

(i) the title (if any) of the musical work or of each of the musical works and a description of the

work or of each of the works that is sufficient to enable the work to be identified;

(ii) whether, in the performance of the musical work or musical works, words consisting or forming part of a literary or dramatic work in which copyright subsists are sung, or are spoken incidentally to or in association with the music;

(iii) whether the record also includes any musical works in which copyright does not subsist and, if so, the number of those works;

(iv) whether the record also includes any musical works the copyright in which is owned by other persons and if so, the number of those works;

(v) the selling price to the public of the record; and

(vi) the amount considered by the manufacturer to be the amount of the royalty payable to the owner in respect of the record and requesting instructions as to the manner of payment of the amount; and

(b) pay to the owner of the copyright the amount of the royalties payable in respect of the records sold or supplied by the manufacturer during that period.

(6) For the purposes of paragraphs (2), (3) and (4), the period referred to, in relation to the owner of the copyright in a musical work or musical works and the manufacturer, means the period of 3 months immediately following —

(a) the date on which the manufacturer first sells or supplies a record of the work or of any of the works; or

(b) if the manufacturer fixes an earlier date — that earlier date.

(7) If the manufacturer takes in relation to any records the steps specified in paragraph (3), the taking of those steps shall, for the purposes of section 56 (3) (b) of the Act, be deemed to constitute the payment of royalties.

#### **Payment of royalty where owner of copyright cannot be found**

**8.—**(1) If the owner of the copyright in a musical work or musical works cannot by reasonable inquiry be found by the manufacturer of records of the work or works, payment in respect of those records of that work or works of the royalty referred to in section 56 (1) (d) of the Act shall, for the purposes of section 56 (3) (b) of the Act, be deemed to be constituted by the manufacturer —

(a) before the expiration of 28 days after each accounting period, depositing the amount of the royalties in respect of the records sold or supplied during that accounting period in a bank account in which no other moneys are deposited except —

(i) royalties payable in respect of other records of the same work or works or of other works the copyright in which is owned by the owner;

(ii) royalties payable in respect of other works the owner of the copyright in which cannot be found by reasonable inquiry; or

(iii) royalties in relation to which regulation 9 applies;

(b) subject to sub-paragraph (c), maintaining each such amount on deposit in that account until the expiration of a period of 6 years from the date of making of the deposit; and

(c) if the owner of the copyright is found before the expiration of the period specified in sub-paragraph (b) — within one month after the owner is found, paying to the owner the amount so maintained on

deposit and serving on the owner or, if the owner is outside Singapore, serving by post on the owner, a statement in relation to the records as provided by regulation 7 (3).

(2) For the purposes of this regulation, an accounting period in relation to the owner of the copyright in a musical work or musical works and the manufacturer, means —

(a) the period of 3 months immediately following —

(i) the date on which the manufacturer first sells or supplies a record of the work or of any of the works; or

(ii) if the manufacturer fixes an earlier date — that earlier date; or

(b) a period of 3 months immediately following the expiration of the period referred to in sub-paragraph (a) or immediately following the expiration of a period that is an accounting period in relation to those persons by virtue of a previous application of this sub-paragraph.

### **Payment of royalties to certain overseas copyright owners**

**9.—**(1) Where the owner of the copyright in a musical work or musical works is known to the manufacturer but does not have a place of residence or business in Singapore and has not appointed a person residing or carrying on business in Singapore as his agent for the purpose of doing acts and things required or permitted to be done by owners of copyright under these Regulations, the royalties payable to the owner in respect of records of that work or those works may be paid as provided by this regulation.

(2) The manufacturer shall, before the expiration of 28 days after each accounting period —

(a) serve by post on the owner of the copyright a statement in relation to the records sold or supplied by the manufacturer during that accounting period as provided by regulation 7 (3); and

(b) send to the owner of the copyright an amount equal to the amount of the royalties payable in respect of those records.

(3) If the owner of the copyright refuses or fails to accept payment of an amount in respect of any royalties, payment shall, for the purposes of section 56 (3) (b) of the Act, be deemed to be constituted by the manufacturer —

(a) depositing an amount equal to the amount of the royalties immediately after the refusal or failure in the bank account referred to in regulation 8;

(b) serving by post on the owner of the copyright a notice informing him of the making of the deposit and requesting his instructions as to the manner in which the amount is to be paid;

(c) subject to sub-paragraph (d), maintaining that amount on deposit in that account until the expiration of a period of 6 years from the date of making of the deposit; and

(d) if the owner of the copyright furnishes instructions before the expiration of the period specified in sub-paragraph (c) as to the manner of payment of the amount, complying with those instructions.

(4) For the purposes of this regulation, an accounting period, in relation to the owner of the copyright in a musical work or musical works and the manufacturer, means —

(a) the period of 3 months immediately following —

(i) the date on which the manufacturer first sells or supplies a record of the work or of any of the works; or

(ii) if the manufacturer fixes an earlier date — that earlier date; or

(b) a period of 3 months immediately following the expiration of the period referred to in sub-paragraph (a) or immediately following the expiration of a period that is an accounting period in relation to those persons by virtue of a previous application of this sub-paragraph.

### **Certification of statements**

**10.**—(1) The correctness of a statement that is required to be served on the owner of the copyright in a musical work in pursuance of regulations 7 (3) (a), 8 (1) (c) and 9 (2) (a) shall —

(a) be certified in writing by an officer of the manufacturer appointed for the purpose; and

(b) if the owner of the copyright, by notice in writing served on the manufacturer at least one month before the last day before which the statement is required to be served, so requests — be certified in writing by an approved company auditor, being a person agreed upon by the owner and the manufacturer or, in the absence of agreement, appointed by the manufacturer.

(2) A statement referred to in paragraph (1) that is required to be served on the owner of the copyright shall be accompanied by —

(a) the certificate given in relation to the statement in accordance with paragraph (1) (a); and

(b) if a certificate is required to be given in relation to the statement in accordance with paragraph (1) (b), that other certificate.

(3) For the purposes of this regulation, “approved company auditor” means a person approved as such under section 9 of the Companies Act.

### **Retail selling price**

**11.**—(1) For the purposes of section 57 of the Act “retail selling price” means —

(a) if the selling price to the public of the record is marked by the manufacturer of the record on the label of the record — that price;

(b) if the selling price to the public of the record is not so marked but is specified in the appropriate price list issued by the manufacturer of the record — the price so specified; or

(c) if the selling price to the public of the record is not so marked or specified but other records embodying the same sound recording as, and bearing an identical label to, the records have been sold to the public in Singapore — the highest price at which those other records are ordinarily sold to the public in Singapore.

(2) A reference in paragraph (1) to the label of a record shall be read as including a reference to the label on the container of the record.

### **Inquiries in relation to previous records of musical works**

**12.**—(1) The inquiries for the purposes of section 61 of the Act shall be made in accordance with this regulation.

(2) The inquiries shall —

(a) in relation to a record of a musical work to which sub-paragraph (b) does not apply — be made of the owner of the copyright in the musical work; and

(b) in relation to a record of a musical work in which words consisting or forming part of a literary or dramatic work were sung or spoken — be made of the owner of the copyright in the musical work and of the owner of the copyright in the literary or dramatic work.

(3) The inquiries shall be in writing and shall —

(a) state the name, and the address of the place of residence or business, of the person making the inquiries;

(b) state the title (if any) of the musical work, or of the literary or dramatic work, as the case may be, and, if the title is not sufficient to enable the work to be identified, contain a description of the work sufficient for that purpose;

(c) if the identity of the author of the musical work, or of the literary or dramatic work, is known to the person making the inquiries — state the name of the author;

(d) if the inquiries relate to a particular record — contain sufficient information to enable the record to be identified; and

(e) inquire whether a record of the musical work, of the musical work in which words consisting or forming part of the literary or dramatic work were sung or spoken, has previously been made in, or imported into, Singapore by, or with the licence of, the owner of the copyright in the musical work or in the literary or dramatic work, as the case may be, for the purpose of retail sale or for use in making other records for the purpose of retail sale.

(4) Subject to paragraphs (5) and (6), if the owner of the copyright in the musical work or in the literary or dramatic work resides or carries on business in Singapore, the inquiries of that owner shall be made by service of the instrument containing the inquiries on the owner.

(5) Subject to paragraph (6), if the owner of the copyright in the musical work or in the literary or dramatic work has appointed a person residing or carrying on business in Singapore as his agent for the purpose of answering inquiries made under section 61 of the Act, the inquiries of that owner may be made by service of the instrument containing the inquiries on the agent.

(6) If a person wishing to make inquiries of the owner of the copyright in a musical work or in a literary or dramatic work does not know the name, or an address for service in Singapore, of the owner or a person appointed by the owner as his agent for the purpose of answering inquiries under section 61 of the Act, the inquiries of that owner shall be made by publishing the instrument containing the inquiries in the *Gazette*.

(7) For the purposes of section 61 (b) of the Act, the prescribed period in relation to receiving an answer to inquiries is —

(a) in the case of inquiries made by the personal delivery of an instrument containing the inquiries — 10 days after delivery of the instrument;

(b) in the case of inquiries made by sending such an instrument by post — 10 days after the date on which the instrument would be delivered in the ordinary course of post; and

(c) in the case of inquiries made by publication of such an instrument in the *Gazette* — 10 days after the date of the *Gazette* in which the instrument is published.

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