



# Copyright Regulations 1969

**Statutory Rules 1969 No. 58 as amended**

made under the

*Copyright Act 1968*

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Attorney-General's Department, Canberra

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## Part 1 Preliminary

### 1 Name of regulations [see Note 1]

These regulations are the *Copyright Regulations 1969*.

### 2 Commencement [see Note 1]

These regulations shall come into operation on the date fixed by Proclamation under section 2 of the Act.

### 3 Interpretation

- (1) In these regulations, unless the contrary intention appears:

*address for service in Australia* means an address at which service may be effected in accordance with regulation 27 of these Regulations.

*the Act* means the *Copyright Act 1968*.

*the previous Act* means the *Copyright Act, 1911*.

- (2) For the purposes of these regulations, a corporation shall be taken to reside in Australia if the corporation has a registered office in Australia under a law of a State or Territory of the Commonwealth and any such office shall be deemed to constitute a place of residence of the corporation.
- (3) A reference in these regulations to a record having been sold shall be read as including a reference to a record having been disposed of gratuitously in circumstances where, by virtue of section 60 of the Act, Division 6 of Part III of the Act applies as if that disposal were a sale of the record by retail.
- (4) Without limiting the application in relation to these Regulations of paragraph (a) of section 46 of the *Acts Interpretation Act 1901-1966*, an expression used in any of these regulations that:
- (a) is also used in a section of the Act for the purposes of which, or of a provision of which, that regulation is made; and

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- (b) has, in that section, a defined or other specified meaning;  
has the same meaning in that regulation.

## Part 2 Copyright in original works

### 4B Notices to be displayed

For the purposes of paragraph 39A (b) of the Act:

- (a) a notice 297 millimetres long and 210 millimetres wide is a notice of the prescribed dimensions; and
- (b) the prescribed form of notice is the form in Schedule 3.

### 4BA Destruction of records or copies — subsection 47AA (3) of the Act

- (1) This regulation applies in relation to a recording or film of a work or adaptation that is made for the purpose of simulcasting the work or adaptation in digital form.
- (2) For subsection 47AA (3) of the Act, the relevant date in relation to the recording or film is 12 months after the end of the relevant simulcast period that, in accordance with the *Broadcasting Services Act 1992*, is applicable in relation to the broadcasting service that delivers the simulcast.

### 4C Sound broadcasts by holders of print disability radio licences

- (1) For the purposes of subparagraph 47A (1) (b) (iii) of the Act, the following particulars are prescribed:
  - (a) in the case where the work is the whole or part of an article contained in a periodical publication — the page numbers of the pages in that volume, or in that number of that volume, that have been broadcast, or, in a case where a page so broadcast does not bear a page number, such description of the page as will enable it to be identified; and
  - (b) in any other case — the page numbers of the pages in the edition of the work that have been broadcast or, in a case where a page so broadcast does not bear a page number

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such description of the page as will enable it to be identified.

- (2) For the purposes of paragraph 47A (2) (a) of the Act a record of the making of a broadcast may, instead of being made in writing, be made in any manner that permits the information in the record to be elicited by the use of a computer.
- (3) Subject to subregulation (4), for the purposes of paragraph 47A (2) (b) of the Act, where a record of the making of a broadcast is made in writing, that record shall be made in accordance with:
  - (a) in the case where the work is the whole or part of an article contained in a periodical publication — the form in Schedule 3A; and
  - (b) in any other case — the form in Schedule 3B.
- (4) Strict compliance with the forms in Schedules 3A and 3B is not necessary and substantial compliance is sufficient.
- (5) For the purposes of paragraph 47A (11) (a) of the Act, the prescribed retention period is 4 years.

**4D Notice of communication — paragraph 49 (7A) (c) of the Act**

For paragraph 49 (7A) (c) of the Act, a notice in the form set out in Schedule 4 must be communicated to the person.

**5 Notice of intended publication of unpublished work kept in public library**

For the purposes of paragraph (b) of subsection (1), and paragraph (b) of subsection (2), of section 52 of the Act, the prescribed notice of the intended publication of the new work is a notice given by advertisement published in the *Gazette* not earlier than three months, and not later than two months, before the date of the publication or subsequent publication, as the case may be, of the new work and:

- (a) stating the name, and the address of the place of residence or business, of the person intending to publish the new

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- work and the intention of that person to publish the new work;
- (b) stating the title (if any) of the old work and, if that title is not sufficient to enable that work to be identified, containing a description of that work that is sufficient for that purpose;
  - (c) stating the time, or an estimate of the time, when the old work was made or the period, or an estimate of the period, over which the making of the old work extended, as the case may be;
  - (d) if the name of the author of the old work is known to the person intending to publish the new work — stating the name of that author;
  - (e) stating the name and address of the library or other place in which a copy, or the manuscript, of the old work is kept;
  - (f) stating the name of the person from whom the copy or manuscript of the old work was acquired for the purposes of that library or other place or, if the person intending to publish the new work does not know the name of the person from whom the copy or manuscript was acquired for those purposes, stating that fact;
  - (g) stating that a person claiming to be the owner of the copyright in the old work may give notice of his claim to the person intending to publish the new work; and
  - (h) stating, at the foot of the notice, the name of the person by whom the notice is given.

**6 Countries in relation to which Division 6 of Part III of the Act applies**

- (1) For the purposes of subparagraphs (iii) and (iv) of paragraph (a) of subsection (1) of section 55, and subparagraphs (iii) and (iv) of paragraph (d) of subsection (1) of section 59, of the Act, Division 6 of Part III of the Act applies in relation to each country that constitutes, or forms part of, the territory of a Country specified in Schedule 8 to these Regulations.

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- (2) For the purposes of the last preceding subregulation:
- (a) the overseas Departments and Territories of France shall be deemed to form part of the territory of France;
  - (ba) the Netherlands Antilles shall be deemed to form part of the territory of the Netherlands;
  - (c) the Cook Islands (including Niue) and the Tokelau Islands shall be deemed to form part of the territory of New Zealand;
  - (d) the overseas Provinces of Portugal shall be deemed to form part of the territory of Portugal;
  - (e) the Channel Islands, the Isle of Man and the colonies of, and states associated with, the United Kingdom of Great Britain and Northern Ireland shall be deemed to form part of the territory of the United Kingdom of Great Britain and Northern Ireland; and
  - (f) the Commonwealth of Puerto Rico, Guam and the Virgin Islands of the United States of America shall be deemed to form part of the territory of the United States of America.

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

- (1) For the purposes of paragraph (b) of subsection (1) of section 55 of the Act, the prescribed notice of the intended making of a record of a musical work is a written notice given in accordance with this regulation by the person intending to make the record.
- (2) Subject to the next two succeeding subregulations, if the owner of the copyright in the musical work resides or carries on business in Australia, the notice shall be given by service of the notice on the owner.
- (3) Subject to the next succeeding subregulation, if the owner of the copyright in the musical work has appointed a person residing or carrying on business in Australia as his agent for the purpose of receiving notices under section 55 of the Act, the notice may be given by service of the notice on the agent.

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- (4) If the person intending to make the record does not know the name, or an address for service in Australia, 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 55 of the Act, the notice shall be given by publication of the notice in the *Gazette* and, if the notice does not include the information referred to in subregulation (6) of this regulation and the owner or his agent makes an application in accordance with subregulation (8) of this regulation, by the furnishing of that information to the owner or agent.
- (5) The notice shall:
- (a) state that a person specified in the notice intends to make in Australia a record of the musical work or of part of the musical work;
  - (b) state the address of the place of residence or business of the person intending to make the record;
  - (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; and
  - (e) if the identity of the author of the work is known to the person intending to make the record — state the name of the author.
- (6) Where the notice is given in accordance with subregulation (2) or subregulation (3) of this regulation, the notice shall, and, where the notice is given in accordance with subregulation (4) of this regulation, the notice may, also:
- (a) set out any particulars known to the person intending to make the record 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 paragraph (a) of subsection (1) of section 55 of the Act;
  - (b) state whether the record that is intended to be made is to be a disc, tape, paper or other device;

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- (c) 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;
  - (d) state the date on which it is proposed to offer or expose the record for sale to the public in Australia;
  - (e) state the proposed selling price to the public of the record; and
  - (f) state the amount of the royalty that the person intending to make the record estimates will be payable to the owner of the copyright in respect of the record.
- (7) Where the notice is given in accordance with subregulation (4) of this regulation and the notice published in the *Gazette* does not contain the information referred to in the last preceding subregulation, the notice shall also state the address of a place in Australia at which that information may be obtained.
- (8) Upon personal or written application at the address specified in a notice referred to in the last preceding subregulation 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 person intending to make the record shall, unless the information referred to in subregulation (6) of this regulation was included in the notice, furnish that information to the owner or agent.

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

Where sub-subparagraph 55 (1) (d) (ii) (B) of the Act applies, the prescribed royalty, within the meaning of section 55 of the Act, is to be paid in accordance with regulations 9 to 14, inclusive, of these regulations.



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**Regulation 9****9 Payment of royalty by affixing adhesive labels**

- (1) Where the owner of the copyright in a musical work makes available, for purchase by manufacturers of records of that work, adhesive labels of a kind referred to in this regulation, the affixing to, or to the container of, a record of that work in accordance with this regulation of an adhesive label or adhesive labels purchased from the owner of the copyright constitutes a manner of payment of the prescribed royalty in respect of the record.
- (2) 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.
- (3) 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.
- (4) A label shall be an adhesive paper label, square in shape, bearing a design enclosed with a circle and having a side of not more than one-half of one inch in length.
- (5) A label:
  - (a) shall not be in a form that resembles a postage stamp; and
  - (b) shall not bear:
    - (i) an effigy of the sovereign or of any other 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 Commonwealth or a State for the purpose of specifying a tax payable to the Commonwealth or that State.

**Regulation 10**

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

- (1) This regulation applies for the purposes of sub-subparagraph 55 (1) (d) (ii) (B) of the Act to the payment of a prescribed 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 subregulation (1) of regulation 13 of these regulations applies at the time when the notice referred to in the next succeeding subregulation is served, but applies only in respect of a record of the work or works sold or supplied at a time when the next succeeding regulation does not apply as between those persons.
- (2) Where:
  - (a) the manufacturer serves notice in writing on the owner of the copyright requesting him to make available for purchase by the manufacturer adhesive labels of a kind referred to in the last preceding regulation; and
  - (b) the owner of the copyright refuses or fails to make the labels available for purchase by the manufacturer within seven days after the notice is served on him;the royalty payable by the manufacturer to the owner of the copyright in respect of records of the work or works sold or supplied by the manufacturer during the period ascertained in accordance with subregulation (4) of this regulation may be paid as provided by this regulation.
- (3) Before the expiration of twenty-eight days after the period ascertained in accordance with the next succeeding subregulation, 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

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- 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
- (b) pay to the owner of the copyright the amount of the royalties payable in respect of records sold or supplied by the manufacturer during that period.
- (4) The period referred to in the last two preceding subregulations is the period commencing immediately after the date of service of the notice referred to in paragraph (a) of subregulation (2) of this regulation and ending at the expiration of three months after that date or at the time when the next succeeding regulation commences to apply as between the manufacturer and the owner of the copyright, whichever first happens.

**11 Deposit of moneys by manufacturer of records with owner of copyright in musical work**

- (1) For the purposes of sub-subparagraph 55 (1) (d) (ii) (B) of the Act, the prescribed royalty payable to the owner of the copyright in a musical work, other than an owner in relation to whom subregulation (1) of regulation 13 of these Regulations applies, in respect of a record of that work may be paid as provided by this regulation.
- (2) For the purposes of this regulation:

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- (a) an accounting period, in relation to the owner of the copyright and the manufacturer, is:
    - (i) the period of one month, or such longer period as is agreed between those persons, immediately following the date on and from which a deposit made by the manufacturer with the owner under the next succeeding subregulation has effect; or
    - (ii) a period of one month, or such longer period as is agreed between those persons, immediately following the expiration of the period ascertained in accordance with the last preceding subparagraph 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 subparagraph;
  - (b) the period of grace, in relation to a period that is an accounting period in relation to the owner of the copyright and the manufacturer, is the period of twenty-eight days, or such other period as is agreed between those persons, immediately following the expiration of that accounting period; and
  - (c) a prescribed day, in relation to the owner of the copyright and the manufacturer, is any of the following days:
    - (i) the last day of the period of six months immediately following the date on and from which the deposit made by the manufacturer with the owner under the next succeeding subregulation had effect;
    - (ii) an anniversary of the date on and from which that deposit had effect;
    - (iii) the last day of the period of six months immediately following such an anniversary.
- (3) The manufacturer shall make a deposit with the owner of the copyright, with effect on and from the date of the deposit, or, if the manufacturer by notice in writing served on the owner at the time when the deposit is made specifies a later date, with effect on and from the date so specified, of such amount as is agreed between them or, in the absence of agreement, as is equal to the amount ascertained in accordance with the formula:

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$$\frac{A \times B}{C}$$

where:

**A** is the total amount of the royalties paid or payable under the Act or the previous Act by the manufacturer to the owner in respect of records of musical works sold or supplied by the manufacturer during the period of one year immediately preceding the date on and from which the deposit has effect; and

**B** is the number of whole months included in the first period that is an accounting period in relation to the owner and the manufacturer; and

**C** is the number of whole months of the year that are included in the period of one year immediately preceding the date on and from which the deposit has effect and during which the manufacturer sold or supplied records of musical works in respect of which royalties were paid or payable under the Act or the previous Act by him or her to the owner.

- (3A) The manufacturer must, subject to this regulation, maintain the amount, ascertained in accordance with the formula in subregulation (3), on deposit with the owner of the copyright.
- (4) Where the amount of the deposit to be made under the last preceding subregulation is not agreed between the manufacturer and the owner of the copyright, this regulation does not apply as between those persons unless the manufacturer sold or supplied records of musical works, being records in respect of which royalties were paid or payable under the Act or the previous Act by him to the owner of the copyright, during at least three of the months of the year included in the period of one year immediately preceding the date on and from which the deposit would, but for this subregulation, have effect.
- (5) The owner of the copyright:
- (a) shall lodge amounts deposited with him by the manufacturer under this regulation in an account (in this regulation referred to as ***the account***) in their joint names in a bank in Australia, being an account in which no other

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moneys are lodged and in which the amounts deposited bear interest;

- (b) shall, forthwith after the expiration of each month of the year, cause a copy of the bank statement relating to the account to be sent to the manufacturer;
- (c) shall, at intervals of not more than six months, pay to the manufacturer out of the account an amount equal to the interest on the amounts from time to time standing to the credit of the account that accrued since the account was opened or the last payment was made by him to the manufacturer under this paragraph, as the case may be; and
- (d) shall not otherwise apply moneys standing to the credit of the account except as provided by the succeeding provisions of this regulation.

Penalty: One hundred dollars.

- (6) Before the expiration of the period of grace in relation to an accounting period, 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 accounting 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;

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- (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
- (b) pay to the owner of the copyright the amount of the royalties payable in respect of records sold or supplied by the manufacturer during that accounting period.
- (7) If, before the expiration of the period of grace in relation to an accounting period, the manufacturer does not pay to the owner of the copyright the amount of the royalties payable in respect of records sold or supplied by the manufacturer during that accounting period, the owner of the copyright may apply to his own use in respect of those royalties so much of the amount standing to the credit of the account as does not exceed the amount of those royalties.
- (8) After each prescribed day in relation to the manufacturer and the owner of the copyright, the succeeding provisions of this regulation have effect.
- (9) The amount to be maintained on deposit by the manufacturer with the owner after the expiration of twenty-eight days after a prescribed day is such amount as is agreed between them or, in the absence of agreement, as is equal to the amount ascertained in accordance with the formula:

$$\frac{A \times B}{C}$$

where:

*A* is the total amount of the royalties paid or payable under the Act or the previous Act by the manufacturer to the owner in respect of records of musical works sold or supplied by the manufacturer during the period of one year (in this subregulation referred to as *the relevant period*) immediately preceding that day; and

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*B* is the number of whole months included in the last period that was an accounting period in relation to the owner and the manufacturer and ended on or before that day; and

*C* is the number of whole months of the year that are included in the relevant period and during which the manufacturer sold or supplied records of musical works in respect of which royalties were paid or payable under the Act or the previous Act by him or her to the owner.

- (10) If the amount standing to the credit of the account on a prescribed day exceeds the amount ascertained in accordance with the last preceding subregulation, the owner of the copyright shall pay an amount equal to the excess to the manufacturer out of the account before the expiration of twenty-eight days after that prescribed day and, if the amount is not so paid, the manufacturer may recover that amount in a court of competent jurisdiction from the owner as a debt due to the manufacturer.
- (11) Where the amount to be maintained on deposit under subregulation (9) of this regulation after the expiration of twenty-eight days after a prescribed day is not agreed between the manufacturer and the owner of the copyright, this regulation ceases to apply as between those persons upon the expiration of that period unless the manufacturer sold or supplied records of musical works, being records in respect of which royalties were paid or payable under the Act or the previous Act by him to the owner of the copyright, during at least three of the months of the year included in the period of one year immediately preceding that prescribed day.



**Regulation 12**

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- (12) Where this regulation ceases to apply as between the manufacturer and the owner of the copyright by reason of the last preceding subregulation, the owner of the copyright shall, at the expiration of the period of grace in relation to the accounting period during which this regulation so ceased to apply, when the manufacturer has served a statement referred to in paragraph (a) of subregulation (6) of this regulation in relation to that accounting period, pay to the manufacturer so much of the amount standing to the credit of the account as does not exceed the amount of any royalties payable by the manufacturer to the owner in respect of records sold or supplied by the manufacturer during that accounting period or any previous accounting period and, if the amount is not so paid, the manufacturer may recover the amount in a court of competent jurisdiction from the owner as a debt due to the manufacturer.
- (13) Nothing in the last two preceding subregulations prevents the manufacturer making a further deposit with the owner of the copyright in accordance with subregulation (3) of this regulation if this regulation again applies as between those persons.

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

- (1) If the owner of the copyright in a musical work or musical works cannot be found by reasonable inquiry by the manufacturer of records of that work or those works, payment in respect of those records of that work or those works of the prescribed royalty referred to in sub-subparagraph 55 (1) (d) (ii) (B) of the Act is taken to be constituted by the manufacturer:
- (a) before the expiration of twenty-eight days after each accounting period, depositing the amount of the royalties in respect of 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;

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- (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 the next succeeding regulation applies;
  - (b) subject to the next succeeding paragraph, maintaining each such amount on deposit in that account until the expiration of a period of six years from the date of making of the deposit; and
  - (c) if the owner of the copyright is found before the expiration of that period — 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 Australia, serving by post on the owner, a statement in relation to the records as provided by subregulation (3) of regulation 10 of these Regulations.
- (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, is:
- (a) the period of three 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 three months immediately following the expiration of the period referred to in the last preceding paragraph 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 paragraph.

**Regulation 13**

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

- (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 Australia and has not appointed a person residing or carrying on business in Australia as his agent for the purpose of doing acts and things required or permitted to be done by owners of copyrights 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 twenty-eight 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 subregulation (3) of regulation 10 of these Regulations; 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, the prescribed royalty referred to in sub-subparagraph 55 (1) (d) (ii) (B) of the Act is taken to be constituted by the manufacturer:
  - (a) depositing an amount equal to the amount of the royalties forthwith after the refusal or failure in the bank account referred to in the last preceding regulation;
  - (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 the next succeeding paragraph, maintaining that amount on deposit in that account until the expiration of a period of six years from the date of making of the deposit; and
  - (d) if the owner of the copyright furnishes instructions before the expiration of that period as to the manner of payment of the amount, complying with those instructions.

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- (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, is:
- (a) the period of three 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 three months immediately following the expiration of the period referred to in the last preceding paragraph 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 paragraph.

**14 Certification of statements**

- (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 paragraph (a) of subregulation (3) of regulation 10, paragraph (a) of subregulation (6) of regulation 11, paragraph (c) of subregulation (1) of regulation 12 or paragraph (a) of subregulation (2) of regulation 13 of these Regulations 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 a person who is a registered company auditor under the law of a State or Territory of the Commonwealth, being a person agreed upon by the owner and the manufacturer or, in the absence of agreement, appointed by the manufacturer.

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- (2) A statement referred to in the last preceding subregulation that is served on the owner of the copyright shall be accompanied by the certificate given in relation to the statement in accordance with paragraph (a) of that subregulation and, if a certificate is required to be given in relation to the statement in accordance with paragraph (b) of that subregulation, shall also be accompanied by that last-mentioned certificate.

**15 Prescribed period in relation to making of records of musical works**

For the purpose of subsection (3) of section 55 of the Act, the prescribed period is one month.

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

- (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 the next succeeding paragraph 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;

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- (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, or 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, Australia 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 the next two succeeding subregulations, if the owner of the copyright in the musical work or in the literary or dramatic work resides or carries on business in Australia, the inquiries of that owner shall be made by service of the instrument containing the inquiries on the owner.
- (5) Subject to the next succeeding subregulation, 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 Australia 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 Australia, of the owner or of 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 paragraph (b) of section 61 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 — ten days after delivery of the instrument;
  - (b) in the case of inquiries made by sending such an instrument by post — ten days after the date when the

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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* — ten days after the date of the *Gazette* in which the instrument is published.

**17 Circumstances in which design is taken to be applied industrially**

- (1) For the purposes of section 77 of the Act, a design is taken to be applied industrially if it is applied:
  - (a) to more than 50 articles; or
  - (b) to one or more articles (other than hand-made articles) manufactured in lengths or pieces.
- (2) For the purposes of paragraph (1) (a), any 2 or more articles:
  - (a) that are of the same general character; and
  - (b) that are intended for use together; and
  - (c) to which the same design, or substantially the same design, is applied;are taken to constitute a single article.
- (3) For the purposes of this regulation, a design is taken to be applied to an article if:
  - (a) the design is applied to the article by a process (whether a process of printing, embossing or otherwise); or
  - (b) the design is reproduced on or in the article in the course of the production of the article.

**Regulation 17A**

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**Part 3**                      **Copyright in subject-matter  
other than works****17A**        **Notice requirements — paragraph 104B (b) of the Act**

For paragraph 104B (b) of the Act:

- (a) the prescribed form is:
  - (i) in relation to a copy of a published edition of a work — the form set out in Schedule 3; and
  - (ii) in relation to a copy of an audio-visual item — the form set out in Schedule 9; and
- (b) a notice must be 297 millimetres long and 210 millimetres wide.

**18**        **Prescribed period in relation to public performance  
of recordings first published outside Australia**

For the purposes of paragraph (b) of subsection (1) of section 108 of the Act, the prescribed period is seven weeks.

**19**        **Prescribed period in relation to broadcasts of  
recordings not published in Australia**

For the purposes of subsection (3) of section 109 of the Act, the prescribed period is seven weeks.

**20**        **Destruction of copies — subsection 110C (3) of the  
Act**

- (1) This regulation applies in relation to a copy of a sound recording or cinematographic film that is made for the purpose of simulcasting the recording or film in digital form.
- (2) For subsection 110C (3) of the Act, the relevant date in relation to the copy is 12 months after the end of the relevant simulcast period that, in accordance with the *Broadcasting Services Act 1992*, is applicable in relation to the broadcasting service that delivers the simulcast.



## **Part 3A**

# **Limitation on remedies available against carriage service providers**

*Note* Subsection 116AG (1) of the Act provides that a carriage service provider must satisfy the relevant conditions set out in Subdivision D of Division 2AA of Part V of the Act before the limitations on remedies in section 116AG of the Act apply.

### **Division 3A.1 Preliminary**

#### **20A Definitions for Part 3A**

- (1) In this Part:

*action* has the same meaning as in Part V of the Act.

*agent*, of an owner of the copyright in copyright material, means a person authorised to act for the owner for the purpose of Division 2AA of Part V of the Act and this Part.

*designated representative*, for a carriage service provider, means the person designated under regulation 20C to receive notifications and notices under this Part for the carriage service provider.

*owner*, in relation to the copyright in copyright material, includes an exclusive licensee of the copyright in the material.

*system or network*, in relation to a carriage service provider, means a system or network controlled or operated by or for the carriage service provider.

*user*, in relation to copyright material stored on a carriage service provider's system or network, means the person who directed the carriage service provider to store the copyright material on its system or network.

- (2) A word or expression used in this Part and in Division 2AA of Part V of the Act has the same meaning in this Part as it has in that Division.

**Regulation 20B**

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*Note* The following words and expressions are defined in Division 2AA of Part V of the Act — see section 116AB:

- caching
- copyright material
- industry code.

**20B      Industry code (Act s 116AB)**

For subparagraph (a) (i) of the definition of *industry code* in section 116AB of the Act, the following requirements are prescribed in relation to an industry code to which condition 2 of item 1 of the table in subsection 116AH (1) of the Act applies:

- (a) the industry code must be developed through an open voluntary process by a broad consensus of copyright owners and carriage service providers;
- (b) the industry code must include a provision to the effect that *standard technical measures* are technical measures that:
  - (i) are used to protect and identify copyright material; and
  - (ii) are accepted under the industry code or developed in accordance with a process set out in the industry code; and
  - (iii) are available on non-discriminatory terms; and
  - (iv) do not impose substantial costs on carriage service providers or substantial burdens on their systems or networks.

**20C      Designated representative**

- (1) A carriage service provider must designate a person to be the representative of the carriage service provider (a *designated representative*) to receive notifications and notices issued under this Part for the carriage service provider.
- (2) The carriage service provider must publish a notice in a reasonably prominent location on its website setting out the following information:
  - (a) the title of the position of the designated representative;

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- (b) sufficient information to allow a person to contact the designated representative, including:
  - (i) an electronic mail address; and
  - (ii) a postal address; and
  - (iii) if available, a telephone number or fax number, or both.

**20D Requirements for notifications and notices issued under this Part**

- (1) A notification, notice or counter-notice issued under this Part must:
  - (a) be in accordance with, or substantially in accordance with, the form prescribed by this Part; and
  - (b) be issued by post or electronic communication to the carriage service provider's designated representative.
- (2) The requirement for a person's signature on a notification, notice or counter-notice is taken to have been met in relation to a notification, notice or counter-notice that is issued by electronic communication if:
  - (a) a method is used to identify the person and to indicate the person's approval of the information and statements contained in the communicated notification, notice or counter-notice; and
  - (b) the method used was as reliable as was appropriate for the purpose of communicating the information and statements contained in the notification, notice or counter-notice.

**Division 3A.2 Conditions — cached copyright material**

**20E Notification in relation to Category B activity**

- (1) For condition 3 of item 3 of the table in subsection 116AH (1) of the Act, the form of notification set out in Part 1 of Schedule 10 is prescribed.

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- (2) The notification must be made by the owner, or an agent of the owner, of the copyright in cached copyright material on a carriage service provider's system or network that has been removed, or to which access has been disabled, at the originating site.

## **Division 3A.3      Conditions — copyright material found to be infringing by an Australian court**

### **20F      Notice in relation to Category C and D activities**

- (1) For condition 2 of item 4 (Category C activities), and condition 2 of item 5 (Category D activities), of the table in subsection 116AH (1) of the Act, the form of notice set out in Part 2 of Schedule 10 is prescribed.
- (2) A notice under subregulation (1) must:
- (a) if the notice relates to a Category C activity — be made by the owner, or an agent of the owner, of the copyright in the copyright material residing on a carriage service provider's system or network that has been found to be infringing by an Australian court; or
  - (b) if the notice relates to a Category D activity — be made by the owner, or an agent of the owner, of the copyright in the copyright material that has been found to be infringing by an Australian court, and to which a reference is provided by the carriage service provider on its system or network.

## **Division 3A.4      Conditions — takedown of copyright material following notice from copyright owner**

### **20G      Application of Division 3A.4**

For condition 3 of item 4 (Category C activities) of the table in subsection 116AH (1) of the Act, this Division prescribes the procedure to be followed in relation to copyright material residing on a carriage service provider's system or network if:

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- (a) the owner, or an agent of the owner, of the copyright in the material believes, on reasonable grounds, that the material is infringing; and
- (b) the owner or agent wishes the carriage service provider to remove or disable access to the material.

**20H Definitions for Division 3A.4**

In this Division:

*counter-notice* means a notice issued under regulation 20K.

*notice of claimed infringement* means a notice issued under regulation 20I.

*working day*, in a place, means a day that is not:

- (a) a public holiday or a bank holiday in that place; or
- (b) a Saturday or a Sunday.

**20I Notice of claimed infringement**

- (1) The owner, or an agent of the owner, of the copyright in the copyright material must issue a notice of claimed infringement in relation to the copyright material to the carriage service provider's designated representative.
- (2) A notice of claimed infringement must be in accordance with, or substantially in accordance with, the form set out in Part 3 of Schedule 10.

**20J Takedown procedure**

- (1) If a carriage service provider receives a notice of claimed infringement under regulation 20I, the carriage service provider must expeditiously remove, or disable access to, the copyright material specified in the notice and residing on its system or network.
- (2) As soon as practicable after removing, or disabling access to, copyright material under subregulation (1), the carriage service provider must send to the user who directed the carriage service provider to store the copyright material on its system or network:

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- (a) a copy of the notice of claimed infringement; and
- (b) a notice stating:
  - (i) that the copyright material has been removed, or access to it has been disabled; and
  - (ii) that the user may, within 3 months after receiving the copy of the notice of claimed infringement, issue a counter-notice in accordance with regulation 20K of the *Copyright Regulations 1969* to the carriage service provider's designated representative disputing the claims in the notice of claimed infringement.

*Note* The carriage service provider need not take any further action in relation to the copyright material unless the carriage service provider receives a counter-notice from the user under regulation 20K.

- (3) A carriage service provider is taken to have complied with subregulation (2) if:
  - (a) the carriage service provider has taken reasonable steps to identify the user but has been unable to do so; or
  - (b) the carriage service provider sends the documents to the user as required by subregulation (2) but they are not received by the user.

### **20K Counter-notice**

- (1) If a user receives a copy of a notice of claimed infringement from a carriage service provider under regulation 20J, the user may issue a counter-notice to the carriage service provider's designated representative disputing the claims set out in the notice.

*Note* If the user does not issue a counter-notice to the carriage service provider's designated representative, the carriage service provider is not required to take any further action in relation to the notice of claimed infringement.

- (2) A counter-notice must:
  - (a) be in accordance with, or substantially in accordance with, the Form set out in Part 4 of Schedule 10; and
  - (b) be issued within 3 months after the user receives the copy of the notice of claimed infringement.

**Regulation 20M**

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**20L Copy of counter-notice to be sent to copyright owner**

- (1) If a carriage service provider receives a counter-notice from a user under regulation 20K in response to a notice of claimed infringement, the carriage service provider must, as soon as practicable after receiving the counter-notice, send to the copyright owner or agent who issued the notice of claimed infringement:
  - (a) a copy of the counter-notice; and
  - (b) a notice stating that if the owner or agent does not, within 10 working days after the date the notice was sent, bring an action seeking a court order to restrain the activity that is claimed to be infringing, the carriage service provider will restore, or enable access to, the copyright material on its system or network.
- (2) If the counter-notice is from a user who is an individual, the copy of the counter-notice and the notice under paragraph (1) (b) sent to the copyright owner or agent under subregulation (1) may disclose information that could identify the user if the disclosure is consistent with the *Telecommunications Act 1997* and the *Privacy Act 1988*.

**20M Restoring copyright material**

- (1) A carriage service provider must comply with this regulation if:
  - (a) the carriage service provider sends a copy of a counter-notice issued by a user and a notice to the copyright owner or agent under regulation 20L in relation to a notice of claimed infringement issued by the copyright owner or agent; and
  - (b) either:
    - (i) the owner or agent does not, within 10 working days after those documents were sent, notify the carriage service provider's designated representative that the owner or agent has brought an action seeking a court order to restrain the activity that is claimed to be infringing; or
    - (ii) the carriage service provider is notified that an action for infringement of the copyright in the

**Regulation 20N**

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copyright material has been discontinued or was unsuccessful.

- (2) The carriage service provider must restore, or enable access to, the copyright material on its system or network:
  - (a) if the carriage service provider is not notified by the copyright owner or agent of the matter mentioned in subparagraph (1) (b) (i) within the period mentioned in that subparagraph — as soon as practicable after the end of that period; or
  - (b) if the carriage service provider is notified of the matter mentioned in subparagraph (1) (b) (ii) — as soon as practicable after receiving the notification.

*Note* The carriage service provider is not required to have regard to a notification from the copyright owner or agent of a kind mentioned in subparagraph (1) (b) (i) if it is received more than 10 working days after the documents were sent to the owner or agent under regulation 20L.

**Division 3A.5 Conditions — procedure following takedown of copyright material other than following notice by copyright owner**

**20N Application of Division 3A.5**

- (1) For condition 3 of item 4 (Category C activities) of the table in subsection 116AH (1) of the Act and subject to subregulation (2), this Division prescribes the procedure to be followed in relation to copyright material residing on a carriage service provider's system or network if the carriage service provider:
  - (a) becomes aware that the material is infringing; or
  - (b) becomes aware of facts or circumstances that make it apparent that the material is likely to be infringing.

*Note* The carriage service provider must act expeditiously to remove or disable access to copyright material residing on its system or network if the carriage service provider becomes aware of a matter mentioned in paragraph (1) (a) or (b) in relation to the material — see condition 2A of item 4 of the table in subsection 116AH (1) of the Act.



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- (2) This Division does not apply if the carriage service provider becomes aware of a matter mentioned in paragraph (1) (a) or (b) in relation to copyright material residing on the carriage service provider's system or network as a result of receiving a notice of claimed infringement under Division 3A.4, or any other notification, from the owner, or an agent of the owner, of the copyright in the material.

*Note* The procedure prescribed in Division 3A.4 applies if the carriage service provider receives a notice of claimed infringement in relation to the copyright material from the owner, or an agent of the owner, of the copyright in the material.

**20P Notice to user**

- (1) As soon as practicable after removing, or disabling access to, the copyright material under condition 2A of item 4 of the table in subsection 116AH(1) of the Act, the carriage service provider must send to the user who directed the carriage service provider to store the copyright material on its system or network a notice stating:
- (a) that the copyright material has been removed, or access to it has been disabled; and
  - (b) the grounds for removing, or disabling access to, the copyright material; and
  - (c) that the user may, within 3 months after receiving the notice, issue a counter-notice in accordance with regulation 20Q of the *Copyright Regulations 1969* to the carriage service provider's designated representative disputing the grounds for removing, or disabling access to, the copyright material and requesting the carriage service provider to restore, or enable access to, the copyright material on the carriage service provider's system or network.
- (2) A carriage service provider is taken to have complied with subregulation (1) if:
- (a) the carriage service provider has taken reasonable steps to identify the user but has been unable to do so; or
  - (b) the carriage service provider sends the notice to the user as required by subregulation (1) but it is not received by the user.

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**20Q Counter-notice**

- (1) If a user receives a notice from a carriage service provider under regulation 20P, the user may issue a counter-notice to the carriage service provider's designated representative disputing the grounds for removing, or disabling access to, the copyright material and requesting the carriage service provider to restore, or enable access to, the copyright material on the carriage service provider's system or network.

*Note* If the user does not issue a counter-notice to the carriage service provider's designated representative, the carriage service provider is not required to take any further action in relation to the copyright material.

- (2) A counter-notice must:
- (a) be in accordance with, or substantially in accordance with, the Form set out in Part 5 of Schedule 10; and
  - (b) be issued within 3 months after the user receives the notice under regulation 20P.

**20R Restoring copyright material**

If:

- (a) a carriage service provider receives a counter-notice in relation to copyright material under regulation 20Q; and
- (b) on the basis of the information and statements in the counter-notice, the carriage service provider is satisfied that the copyright material is not, or is not likely to be, infringing, the carriage service provider must, as soon as practicable after receiving the counter-notice, restore, or enable access to, the copyright material on its system or network.

**Division 3A.6      Conditions — takedown of  
reference to copyright material  
following notice from copyright  
owner**

**20S      Application of Division 3A.6**

For condition 3 of item 5 (Category D activities) of the table in subsection 116AH (1) of the Act, this Division prescribes the procedure to be followed in relation to a reference to copyright material that is provided by a carriage service provider on its system or network if:

- (a) the owner, or an agent of the owner, of the copyright in the material believes, on reasonable grounds, that the material is infringing; and
- (b) the owner or agent wishes the carriage service provider to remove or disable access to the reference to the material.

**20T      Notice of claimed infringement**

- (1) The owner, or an agent of the owner, of the copyright in the copyright material to which the reference is provided must issue a notice of claimed infringement to the carriage service provider's designated representative.
- (2) A notice of claimed infringement must be in accordance with, or substantially in accordance with, the form set out in Part 6 of Schedule 10.

**20U      Takedown procedure**

If a carriage service provider receives a notice of claimed infringement under regulation 20T, the carriage service provider must expeditiously remove, or disable access to, the reference to the copyright material specified in the notice and provided by the carriage service provider on its system or network.

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**Division 3A.7              Civil remedies**

**20V              Action taken to comply with a condition**

A carriage service provider is not liable for damages or any other civil remedy as a result of action taken in good faith by the carriage service provider to comply with any of the following conditions:

- (a) condition 3 of item 3 (Category B activities) of the table in subsection 116AH (1) of the Act;
- (b) condition 2, 2A or 3 of item 4 (Category C activities) of the table in subsection 116AH (1) of the Act;
- (c) condition 2, 2A or 3 of item 5 (Category D activities) of the table in subsection 116AH (1) of the Act.

*Note* See also Divisions 3A.2, 3A.3, 3A.4, 3A.5 and 3A.6 of this Part in relation to these conditions.

**20W              Failure to restore or enable access to copyright material**

- (1) This regulation applies to a carriage service provider who is required to comply with regulation 20M or 20R in relation to particular copyright material.
- (2) If the carriage service provider fails to restore, or enable access to, the copyright material on its system or network as required by regulation 20M or 20R, the carriage service provider may be liable for damages or any other civil remedy in an action taken by a user or third party affected by the failure.
- (3) However, the carriage service provider is not liable for damages or any other civil remedy in an action taken by the owner of the copyright in the copyright material because of the carriage service provider's failure to restore, or enable access to, the copyright material in accordance with regulation 20M or 20R.

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**20X Misrepresentations in notifications and notices**

- (1) A person who issues a notification, notice or counter-notice under this Part, for the purpose of satisfying a condition in Subdivision D of Division 2AA of Part V of the Act, must not knowingly make a material misrepresentation in that notification, notice or counter-notice.
- (2) For subregulation (1), a person knowingly makes a material misrepresentation in a notification, notice or counter-notice if the person does not take reasonable steps to ensure the accuracy of the information and statements included in the notification, notice or counter-notice.
- (3) A person who suffers loss or damage because of a material misrepresentation made knowingly in a notification, notice or counter-notice may bring an action for a civil remedy against the person who issued the notification, notice or counter-notice.

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**Part 3B Technological protection measures**

**20Y Meaning of *copyright material***

In this Part:

*copyright material* means a work or other subject-matter in which copyright subsists.

**20Z Prescribed acts**

For paragraphs 116AN (9) (c) and 132APC (9) (c) of the Act, the doing of the acts mentioned in Schedule 10A is prescribed.

## Part 4 Remedies for infringements of copyright

### 21 Restriction of importation into Australia of copyright material

- (1) A person who, under subsection 135 (2) of the Act, has given a notice to the CEO objecting to the importation of copies of copyright material must, as and when required by the CEO, give to the CEO any information and evidence the CEO requires in order to be satisfied about:
  - (a) the subsistence of copyright in the material; and
  - (b) the ownership of the copyright; and
  - (c) if the notice is given by a person as an agent for the owner of the copyright — the authority of the person to give the notice.
- (2) In this regulation, *CEO* has the same meaning as in Division 7 of Part V of the Act.

### 22 Notice of seizure — specified period for beginning action for infringement of copyright

For subparagraph 135AC (2) (c) (i) of the Act, the specified period is 10 working days.

### 22A Notice of seizure — prescribed period for extension of retention period

For the purposes of subsection 135AC (6) of the Act, the prescribed period is 10 working days after the end of the retention period mentioned in the subsection.

### 23 Restriction of importation into Norfolk Island of printed copies of works

- (1) In this regulation:

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- (a) a reference to the Territory is a reference to Norfolk Island; and
  - (b) a reference to importation into the Territory does not include importation from Australia or from another Territory not forming part of the Commonwealth.
- (2) The owner of the copyright in a published literary, dramatic or musical work may give notice in writing to the Collector of Customs of the Territory (in this regulation referred to as *the Collector*) stating:
- (a) that he is the owner of the copyright in the work; and
  - (b) that he objects to the importation into the Territory, during a period specified in the notice, of copies of the work to which this regulation applies.
- (3) A notice under the last preceding subregulation is of no effect unless the period specified in the notice does not exceed five years and does not extend beyond the end of the period for which the copyright in the work to which the notice relates is to subsist.
- (4) For the purposes of subregulation (2), a notice to the Collector shall be in accordance with Schedule 11.
- (5) The owner of the copyright in a work may appoint another person to act as his agent for the purpose of the giving of a notice by the owner under subregulation (2) of this regulation.
- (6) This regulation applies, in relation to a work, to any printed copy of the work made outside Australia and the Territories of the Commonwealth not forming part of the Commonwealth the making of which would, if it had been made in the Territory by the person who imported it into the Territory, have constituted an infringement of the copyright in the work.
- (7) Where a notice has been given under subregulation (2) of this regulation in respect of a work and has not been withdrawn, the importation of copies of the work to which this regulation applies into the Territory for the purpose of:
- (a) selling, letting for hire, or by way of trade offering or exposing for sale or hire, the copies;
  - (b) distributing the copies:



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- (i) for the purpose of trade; or
  - (ii) for any other purpose to an extent that will affect prejudicially the owner of the copyright in the work; or
- (c) by way of trade exhibiting the copies in public; is prohibited and any such copies, if imported into the Territory for any such purpose, may, subject to this regulation, be seized as forfeited to the Administration of the Territory.
- (8) The Collector, or on appeal from him the Administrator of the Territory, may direct that copies of a work that are liable to be or have been seized as forfeited under this regulation be delivered to the owner or importer if security has been given to the satisfaction of the Collector that the copies will be forthwith exported from the Territory.
  - (9) A person who has given a notice to the Collector in relation to a work under subregulation (2) of this regulation shall, as and when required by the Collector, give to the Collector such information and evidence as the Collector requires for the purpose of enabling him to satisfy himself as to the subsistence of copyright in the work, as to the ownership of that copyright and, where the notice was given by a person as agent for the owner of the copyright as to the authority of the person to give the notice.
  - (10) The Collector may from time to time require a person who has given a notice in relation to a work under subregulation (2) of this regulation to give to the Collector security (whether by way of deposit of money, of an instrument of guarantee or otherwise), as the Collector specifies, in respect of any liability or expense that may be incurred by the Collector as a result of the seizure of any copy of the work.
  - (11) A person who has given a notice to the Collector in relation to a work under subregulation (2) of this regulation is liable to indemnify the Collector against any liability or expense that may be incurred by the Collector as a result of the seizure of any copy of the work to the extent to which any security given by the person to the Collector in respect of that liability or expense is insufficient.

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- (12) Where a person who gave a notice under subregulation (2) of this regulation has failed to comply with any requirement by the Collector under this regulation or has failed to indemnify the Collector against a liability or expense as provided by the last preceding subregulation, the Collector may direct that copies imported into the Territory of a work to which the notice relates are not to be seized as forfeited.

## Part 5                      Copying and communication of broadcasts by educational and other institutions

### 23A      Definitions

For this Part, *administering body*, *collecting society*, *institution*, *relevant right holder* and *rules* have the same meaning as in Part VA of the Act.

### 23B      Marking of copies etc — paragraph 135K (1) (a) of the Act

- (1) For the purposes of paragraph 135K (1) (a) of the Act, the administering body must mark, or cause to be marked, each copy, or any container in which such copy is kept, in the following way, namely, by specifying, in relation to the copy, or, where a container is marked, in relation to each copy contained in the container:
- (a) the following particulars:
    - (i) the name of the institution for which the administering body made the copy or caused it to be made;
    - (ii) a reference to Part VA of the Act;
    - (iii) the day on which the broadcast that was copied commenced;
    - (iv) where the copy was made on a day other than the day on which the broadcast commenced — the day on which the copy of that broadcast was made; or
  - (b) the relevant identifying number of the copy; or
  - (c) where particulars other than the particulars referred to in paragraph (a) have been agreed upon between the administering body and the collecting society — those other particulars.

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- (2) In this regulation, *relevant identifying number*, in relation to each copy made by, or on behalf of, an administering body for an institution, means the number or other reference code used by the body that will enable the collecting society conveniently to:
- (a) identify the institution; and
  - (b) locate, in relation to each such copy made, a copy of the copying record made by the body, being a record made, or caused to be made, under paragraph 135K (1) (b) of the Act.

**23C Contents of record — paragraph 135K (1) (b) of the Act**

For paragraph 135K (1) (b) of the Act, a record must contain the following particulars:

- (a) the name of the institution for which the administering body:
  - (i) made the copy or caused the copy to be made; or
  - (ii) communicated the copy or caused the copy to be communicated;
- (b) the Part of the Act in reliance on which the copying or communication was carried out;
- (c) in relation to the making of a copy, the day on which the copy was made;
- (d) in relation to the communication of a copy of a broadcast, the day on which the copy was first communicated;
- (e) in relation to copies of broadcasts that are taken, under subsection 135H (3) of the Act, to have been copied or communicated again, the day on which they were taken to have been copied or communicated again;
- (f) the title, or other identification, of the program, or of each of the programs, included in the broadcast that was copied or communicated;
- (g) the name or call sign of the broadcaster who made the broadcast;
- (h) the day on which, and the time at which, the broadcast commenced;

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- (i) the number of copies of the broadcast made by the administering body;
- (j) the number of times a copy of the broadcast was communicated by the administering body.

**23D Prescribed retention period — paragraph 135K (1) (c) of the Act**

For the purposes of paragraph 135K (1) (c) of the Act, a retention period of 2 years is prescribed.

**23E Sending of copies of records — paragraph 135K (1) (d) of the Act**

- (1) This regulation applies to all records that relate to any copying of, or communication of a copy of, a broadcast carried out, or taken, under subsection 135H (3) of the Act, to have been carried out by, or on behalf of, the administering body in a quarter.
- (2) Copies of records that are to be sent to the collecting society under paragraph 135K (1) (d) of the Act must be sent by registered or certified mail, or otherwise as agreed between the administering body and the collecting society, not later than 21 days after the end of the quarter.
- (3) In this regulation:  
*quarter* means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October in any year.

**23F Prescribed manner of keeping records — paragraph 135K (2) (a) of the Act**

For the purposes of paragraph 135K (2) (a) of the Act, a record of the copying of a broadcast may be kept in any manner that permits the information in the record to be elicited by the use of a computer.

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**23G Form of record — paragraph 135K (2) (b) of the Act**

For paragraph 135K (2) (b) of the Act, the prescribed form:

- (a) in relation to a record of the copying of a broadcast — is the form set out in Schedule 11AA; and
- (b) in relation to a record of the communication of a copy of a broadcast — is the form set out in Schedule 11AB.

**23H Marking of copies etc — subsection 135K (3) of the Act**

For the purposes of subsection 135K (3) of the Act, the administering body must mark, or cause to be marked, each copy, or any container in which such copy is kept, in the following way, namely, by specifying, in relation to the copy, or, where a container is marked, in relation to each copy contained in the container:

- (a) the particulars referred to in paragraph 23B (1) (a); or
- (b) where other particulars have been agreed upon between the administering body and the collecting society — those other particulars.

**23HA Prescribed circumstances — section 135KA of the Act**

An administering body is not required to comply with the requirements of section 135KA of the Act in respect of the communication of copies of broadcasts in either of the following circumstances:

- (a) if the communication is made within the premises of an educational institution administered by the body in such a manner that persons receiving or accessing the communication cannot, by any means provided by the educational institution:
  - (i) make an electronic copy of the broadcast, or any work or other subject matter comprised in the broadcast; or
  - (ii) communicate the broadcast, or any work or subject matter comprised in the broadcast;

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- (b) in other circumstances agreed between the body and the collecting society.

**23HB Notice requirements — paragraph 135KA (a) of the Act**

A notice under paragraph 135KA (a) of the Act must be in the form set out in Schedule 11AC.

**23J Prescribed provisions — paragraph 135P (3) (d) of the Act**

- (1) For the purposes of paragraph 135P (3) (d) of the Act, in relation to the rules of the collecting society, the following provisions are prescribed, namely:
  - (a) that accounting periods be determined, in accordance with the rules, by the collecting society for accounting purposes and that no such period extend beyond 30 June in any year;
  - (b) that a consistent practice be followed with regard to attributing the receipts and expenditure of the collecting society to a particular accounting period;
  - (c) that the collecting society exercise reasonable diligence in the collection of amounts of equitable remuneration, having regard to the expenses likely to be incurred in the collection of such amounts;
  - (d) that the total amount of any gifts for cultural or benevolent purposes made by the collecting society in respect of any accounting period be an amount not exceeding such percentage of the total amount of equitable remuneration received by the society in respect of that period as is specified in the rules;
  - (e) that the administrative costs and other outgoings of the collecting society paid by the society out of the amounts of equitable remuneration collected by it be reasonable;
  - (f) that the distributable amount, in respect of each accounting period of the collecting society, be allocated in accordance with a scheme of allocation (in this regulation called *the scheme*) that:
    - (i) is determined in accordance with the rules; and

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- (ii) includes criteria for allocation that are specified in the rules; and
- (iii) provides for the allocation of potential shares in the distributable amount to qualified persons;
- (g) that, in relation to each potential share in the distributable amount allocated in accordance with the scheme of the collecting society, an amount representing that potential share:
  - (i) where the qualified person to whom that share was allocated is, at the time of the allocation, a member of the society — be distributed, as soon as is reasonably possible after the allocation, to that qualified person; or
  - (ii) where the qualified person to whom that share was allocated is not, at the time of the allocation, a member of the society:
    - (A) be paid, as soon as is reasonably possible after the allocation, into a trust fund operated by the society for purposes referred to in paragraph (h); and
    - (B) subject to sub-subparagraph (C), be held in that fund in accordance with the rules of the society; and
    - (C) if the qualified person, or that person's agent, becomes a member while the amount representing that person's potential share is held in the trust fund — be distributed to that person or that person's agent, whichever first becomes the member, as soon as is reasonably possible after that person, or that person's agent, as the case may be, becomes a member;
- (h) that a trust fund be operated by the collecting society for purposes that include the holding on trust for any relevant right holder who is not a member of the society, and whose agent is not a member, of any potential share allocated to that holder in accordance with the scheme;
- (i) that any part of a distributable amount, being a part that, in relation to an accounting period, cannot for any reason be



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allocated or distributed, be held on trust in the trust fund referred to in paragraph (h) until distribution becomes possible or until the end of a specified period of not less than 4 years, whichever happens first;

- (j) that a member of the collecting society, including a member who is a relevant right holder or the agent of a relevant right holder, be entitled to reasonable access to the records of the society.

(2) In this regulation:

***distributable amount***, in relation to an accounting period of the collecting society, means the amount of equitable remuneration received by the society that is:

- (a) attributable to that period (in accordance with the practice of the society); or
- (b) otherwise available for distribution;  
after the payment or reservation, out of that amount, of:
- (c) amounts attributable to that period, including:
  - (i) gifts made by the society; and
  - (ii) administrative costs and other outgoings of the society; and
- (d) amounts to be carried forward, in accordance with the rules of the society, to the next accounting period.

***equitable remuneration*** means the equitable remuneration payable by administering bodies under section 135H or 135J of the Act.

***potential share***, in relation to a distributable amount, means a share in that amount in relation to which share the distribution of an amount representing that share will take place in the circumstances referred to in subparagraph (1) (g) (i) or (ii).

***qualified person***, in relation to a collecting society, means:

- (a) a member of the collecting society who is a relevant right holder or the agent of a relevant right holder; or
- (b) a relevant right holder who is not a member of the collecting society and whose agent, if any, is not a member.

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**Part 5A                      Reproduction and  
   communication of works etc  
   by educational and other  
   institutions****23JA      Interpretation**

For this Part, *administering body*, *collecting society*, *eligible item*, *institution*, *licensed copy*, *relevant collecting society*, *relevant copyright owner*, *remuneration notice* and *rules* have the same meaning respectively as in Part VB of the Act.

**23JB      Prescribed message (Act s 135ZQ (3))**

For subsection 135ZQ (3) of the Act, the prescribed message is:

- (a) ‘This is a sound recording made on [*day on which the recording was made*] in reliance on section 135ZQ of the *Copyright Act 1968*.’; or
- (b) ‘This is a sound recording made on [*day on which the recording was made*] in reliance on section 135ZQ of the *Copyright Act 1968*, solely for use in the making of a reproduction or communication under section 135ZP of that Act for a person with a print disability.’

**23JC      Marking of relevant reproductions — subsection  
   135ZQ (4) of the Act**

For subsection 135ZQ (4) of the Act, the administering body must mark, or cause to be marked, each relevant reproduction in hardcopy form in the following way, namely, by specifying on the reproduction:

- (a) where particulars have been agreed upon between the administering body and the collecting society — those particulars; and

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- (b) in any other case:
  - (i) the name of the institution for which the administering body made the reproduction or caused it to be made; and
  - (ii) a reference to section 135ZQ of the Act; and
  - (iii) the day on which the reproduction was made.

**23JD Prescribed message (Act s 135ZT (3))**

For subsection 135ZT (3) of the Act, the prescribed message is:

- (a) ‘This is a sound recording made on [*day on which the recording was made*] in reliance on section 135ZT of the *Copyright Act 1968*.’; or
- (b) ‘This is a sound recording made on [*day on which the recording was made*] in reliance on section 135ZT of the *Copyright Act 1968*, solely for use in the making of a copy or communication for a person with an intellectual disability.’

**23JE Marking of copies — subsection 135ZT (4) of the Act**

For subsection 135ZT (4) of the Act, the administering body must mark, or cause to be marked, each copy, in hardcopy or analog form, in the following way, namely, by specifying on the copy:

- (a) where particulars have been agreed upon between the administering body and the collecting society — those particulars; and
- (b) in any other case:
  - (i) the name of the institution for which the administering body made the copy or caused it to be made; and
  - (ii) a reference to section 135ZT of the Act; and
  - (iii) the day on which the copy was made.

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**23JF Marking of licensed copies etc — paragraph 135ZX (1) (a) of the Act**

- (1) For paragraph 135ZX (1) (a) of the Act, the administering body must mark, or cause to be marked, each licensed copy made in hardcopy form or analog form, or any container in which such copy is kept, by specifying on the copy, or on the container in relation to each copy contained in the container:
  - (a) the following particulars:
    - (i) the name of the institution for which the administering body made the copy or caused it to be made;
    - (ii) a reference to the section of the Act in reliance on which the copy was made;
    - (iii) the day on which the copy was made; or
  - (b) the relevant identifying number of the licensed copy; or
  - (c) where a remuneration notice has been given and particulars other than the particulars referred to in paragraph (a) have been agreed upon between the administering body and the relevant collecting society — those other particulars.
- (2) In this regulation, *relevant identifying number*, in relation to each licensed copy made in hardcopy form or analog form by, or on behalf of, an administering body for an institution, while a remuneration notice is in force, means the number or other reference code used by the body that will enable the relevant collecting society conveniently to:
  - (a) identify the institution; and
  - (b) locate, in relation to each such copy made, a copy of the copying record made by the body, being a record made, or caused to be made, under paragraph 135ZX (1) (b) of the Act.

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**23JG Prescribed particulars — paragraph 135ZX (1) (b) of the Act**

- (1) For paragraph 135ZX (1) (b) of the Act, the following particulars are prescribed in relation to the making of a licensed copy, in hardcopy form or analog form, of the whole or a part of an article contained in a periodical publication:
  - (a) the name of the institution for which the administering body made the licensed copy or caused the copy to be made;
  - (b) the section of the Act in reliance on which the making of that copy was carried out;
  - (c) the day on which the making of that copy was carried out;
  - (d) the full name or the surname and initials of the author of the article (if that name is known);
  - (e) the name of that periodical publication;
  - (f) the International Standard Serial Number of that periodical publication;
  - (g) the name of the publisher of the issue of the periodical publication containing the article;
  - (h) the volume and number, if any, or the date of publication, or other identification, of the issue of the periodical publication containing the article;
  - (i) the number of pages copied;
  - (j) the number of copies made of each page copied;
  - (k) where the licensed copy, not being a reprographic reproduction, was in the form of:
    - (i) a record embodying a sound recording of the whole or a part of the article; or
    - (ii) a Braille version, a large-print version, or a photographic version, of the whole or a part of the article;a reference to that form.
- (2) For paragraph 135ZX (1) (b) of the Act, the following particulars are prescribed in relation to the making of a licensed copy, in hardcopy form or analog form, of the whole or a part of a work, not being an article contained in a periodical publication:

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- (a) the name of the institution for which the administering body made the licensed copy or caused the copy to be made;
- (b) the section of the Act in reliance on which the making of that copy was carried out;
- (c) the day on which the making of that copy was carried out;
- (d) the full name, or the surname and initials, of the author of the work (if that name is known);
- (e) the title or other identification of the work;
- (f) the International Standard Book Number of the published edition containing the work;
- (g) the name of the publisher of the edition containing the work;
- (h) the year of publication of that edition;
- (i) the number of pages copied;
- (j) the number of copies made of each page copied;
- (k) where the licensed copy, not being a reprographic reproduction, was in the form of:
  - (i) a record embodying a sound recording of the whole or a part of the work; or
  - (ii) a Braille version, a large-print version, or a photographic version, of the whole or a part of the work;a reference to that form.

- (3) For paragraph 135ZX (1) (b) of the Act, the following particulars are prescribed in relation to the making of a licensed copy, in hardcopy form or analog form, of an eligible item, being a published sound recording or cinematograph film:
- (a) the name of the institution for which the administering body made the licensed copy or caused it to be made;
  - (b) the section of the Act in reliance on which the making of the licensed copy was carried out;
  - (c) the day on which the making of that copy was carried out;
  - (d) the title of the recording or film, as the case may be, or other identification of the recording or film;
  - (e) the number of copies made of the recording or film;

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- (f) the form in which the copies were made, being a record embodying a sound recording or a copy of a cinematograph film.

**23JH Prescribed retention period — paragraph 135ZX (1) (c) of the Act**

For paragraph 135ZX (1) (c) of the Act, a retention period of 2 years is prescribed.

**23JJ Sending of copies of records — paragraph 135ZX (1) (d) of the Act**

Copies of all records that relate to the making of licensed copies, in hardcopy form or analog form, carried out by, or on behalf of, the administering body during a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in any year (being copies that are to be sent to the collecting society under paragraph 135ZX (1) (d) of the Act) must be sent by registered or certified mail, or otherwise as agreed between the administering body and the collecting society, not later than 21 days after the end of that 3 month period.

**23JK Prescribed manner of keeping records — paragraph 135ZX (2) (a) of the Act**

For paragraph 135ZX (2) (a) of the Act, a record of the making of a licensed copy, in hardcopy form or analog form, may be kept in any manner that permits the information in the record to be elicited by the use of a computer.

**23JL Prescribed form — paragraph 135ZX (2) (b) of the Act**

For paragraph 135ZX (2) (b) of the Act, the form in Schedule 11A is prescribed.

**23JLA Notice requirements — paragraph 135ZXA (a) of the Act**

A notice under paragraph 135ZXA (a) of the Act must be in the form set out in Schedule 11B.

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**23JM Prescribed provisions — paragraph 135ZZB (3) (d) of the Act**

- (1) For paragraph 135ZZB (3) (d) of the Act, in relation to the rules of a collecting society that is declared, under subsection 135ZZB (1) of the Act, to be the collecting society for all relevant copyright owners, or for such classes of relevant copyright owners as are specified in the notice referred to in subsection 135ZZB (1), the following provisions are prescribed, namely:
- (a) that accounting periods be determined, in accordance with the rules, by the collecting society for accounting purposes and that no such period extend beyond 30 June in any year;
  - (b) that a consistent practice be followed with regard to attributing the receipts and expenditure of the collecting society to a particular accounting period;
  - (c) that the collecting society exercise reasonable diligence in the collection of amounts of equitable remuneration, having regard to the expenses likely to be incurred in the collection of such amounts;
  - (d) that the total amount of any gifts for cultural or benevolent purposes made by the collecting society in respect of any accounting period be an amount not exceeding such percentage of the total amount of equitable remuneration received by the society in respect of that period as is specified in the rules;
  - (e) that the administrative costs and other outgoings of the collecting society paid by the society out of the amounts of equitable remuneration collected by it be reasonable;
  - (f) that the distributable amount, in respect of each accounting period of the collecting society, be allocated in accordance with a scheme of allocation (in this regulation called *the scheme*) that:
    - (i) is determined in accordance with the rules; and
    - (ii) includes criteria for allocation that are specified in the rules; and
    - (iii) provides for the allocation of potential shares in the distributable amount to qualified persons;



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- (g) that, in relation to each potential share in the distributable amount allocated in accordance with the scheme of the collecting society, an amount representing that potential share:
  - (i) where the qualified person to whom that share was allocated is, at the time of the allocation, a member of the society — be distributed, as soon as is reasonably possible after the allocation, to that qualified person; or
  - (ii) where the qualified person to whom that share was allocated is not, at the time of the allocation, a member of the society:
    - (A) be paid, as soon as is reasonably possible after the allocation, into a trust fund operated by the society for purposes referred to in paragraph (h); and
    - (B) subject to sub-subparagraph (C), be held in that fund in accordance with the rules of the society; and
    - (C) if the qualified person, or that person's agent, becomes a member while the amount representing that person's potential share is held in the trust fund — be distributed to that person or that person's agent, whichever first becomes the member, as soon as is reasonably possible after that person, or that person's agent, as the case may be, becomes a member;
- (h) that a trust fund be operated by the collecting society for purposes that include the holding on trust for any relevant copyright owner who is not a member of the society, and whose agent is not a member, of any potential share allocated to that owner in accordance with the scheme;
- (i) that any part of a distributable amount, being a part that, in relation to an accounting period, cannot for any reason be allocated or distributed, be held on trust in the trust fund referred to in paragraph (h) until distribution becomes possible or until the end of a specified period of not less than 4 years, whichever happens first;

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- (j) that a member of the collecting society, including a member who is a relevant copyright owner or the agent of a relevant copyright owner, be entitled to reasonable access to the records of the society.

- (2) In this regulation:

***distributable amount***, in relation to an accounting period of the collecting society, means the amount of equitable remuneration received by the society that is:

- (a) attributable to that period (in accordance with the practice of the society); or
- (b) otherwise available for distribution;
- after the payment or reservation, out of that amount, of:
- (c) amounts attributable to that period, including:
- (i) gifts made by the society; and
- (ii) administrative costs and other outgoings of the society; and
- (d) amounts to be carried forward, in accordance with the rules of the society, to the next accounting period.

***equitable remuneration*** means the equitable remuneration payable by administrative bodies under section 135ZV or 135ZW of the Act.

***potential share*** in relation to a distributable amount, means a share in that amount in relation to which share the distribution of an amount representing that share will take place in the circumstances referred to in subparagraph (1) (g) (i) or (ii).

***qualified person***, in relation to a collecting society, means:

- (a) a member of the collecting society who is a relevant copyright owner or the agent of a relevant copyright owner; or
- (b) a relevant copyright owner who is not a member of the collecting society and whose agent, if any, is not a member.

## Part 6                      **Retransmission of free-to-air broadcasts**

### **23K      Identity cards — subsection 135ZZQ (1) of the Act**

- (1) For subsection 135ZZQ (1) of the Act, an identity card must:
  - (a) set out the following information:
    - (i) the name of the collecting society;
    - (ii) the name and title of the person to whom the identity card is issued;
    - (iii) the name and title of the person who issued the identity card;
    - (iv) the date on which the identity card is issued;
    - (v) the date on which the identity card will expire; and
  - (b) state that it has been issued under section 135ZZQ of the Act; and
  - (c) be signed by the person to whom it is issued.
- (2) The expiry date stated on an identity card under subparagraph (1) (a) (v) must be no later than 3 years after the day on which the identity card is issued.

### **23L      Rules of a collecting society — paragraph 135ZZT (3) (d) of the Act**

- (1) For paragraph 135ZZT (3) (d) of the Act, the rules of a collecting society must contain the following provisions:
  - (a) that accounting periods must be determined, in accordance with the rules, by the collecting society for accounting purposes and that no accounting period may extend beyond 30 June in any year;
  - (b) that a consistent practice must be followed with regard to attributing the receipts and expenditure of the collecting society to a particular accounting period;

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- (c) that the collecting society must exercise reasonable diligence in the collection of amounts of equitable remuneration, having regard to the expenses likely to be incurred in the collection of such amounts;
- (d) that the total amount of any gifts for cultural or benevolent purposes made by the collecting society in respect of any accounting period must not exceed such percentage of the total amount of equitable remuneration received by the society for that accounting period as is specified in the rules;
- (e) that the administrative costs and other outgoings of the collecting society paid by the society out of the amounts of equitable remuneration collected by it must be reasonable;
- (f) that the distributable amount, in respect of each accounting period of the collecting society, must be allocated in accordance with a scheme of allocation (*the scheme*) that:
  - (i) is determined in accordance with the rules; and
  - (ii) includes criteria for allocation that are specified in the rules; and
  - (iii) provides for the allocation of potential shares in the distributable amount to qualified persons;
- (g) that, in relation to each potential share in the distributable amount allocated to a qualified person in accordance with the scheme of the collecting society, an amount representing the share:
  - (i) if the qualified person is, at the time of allocation, a member of the society — must be paid, as soon as is reasonably possible after the allocation, to the qualified person; or
  - (ii) if the qualified person is not, at the time of allocation, a member of the society:
    - (A) must be paid, as soon as is reasonably possible after the allocation, into a trust fund operated by the society for purposes referred to in paragraph (h); and
    - (B) subject to sub-subparagraph (C), must be held in that fund in accordance with the rules of the society; and

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- (C) if the qualified person becomes a member while the amount is held in the trust fund — must be distributed to the person as soon as is reasonably possible after he or she becomes a member;
  - (h) that a trust fund must be operated by the collecting society for purposes that include the holding on trust for any relevant copyright owner who is not, and whose agent is not, a member of the society of any potential share allocated to that owner in accordance with the scheme;
  - (i) that any part of a distributable amount that, in relation to an accounting period, cannot for any reason be distributed must be held on trust in the trust fund referred to in paragraph (h) until distribution becomes possible or until the end of a specified period of not less than 4 years, whichever happens first;
  - (j) that a member of the collecting society, including a member who is a relevant copyright owner or the agent of a relevant copyright owner, must, on request, be given reasonable access to the records of the society.
- (2) In this regulation:

***distributable amount***, in relation to an accounting period of the collecting society, means the amount of equitable remuneration received by the society that is:

- (a) attributable to that period (in accordance with the practice of the society); or
- (b) otherwise available for distribution;

after the payment or reservation, out of that amount, of the non-distributable amount.

***equitable remuneration*** means the equitable remuneration payable by retransmitters under section 135ZZM of the Act.

***non-distributable amount***, in relation to an accounting period, means:

- (a) amounts attributable to that period that are paid or held, in accordance with the rules of the society, for:
  - (i) gifts made by the society; and
  - (ii) administrative costs and other outgoings of the society; and

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- (b) amounts to be carried forward, in accordance with the rules of the society, to the next accounting period.

***potential share*** means a share that is:

- (a) a share in a distributable amount; and
- (b) represented by an amount that will be distributed in the circumstances referred to in subparagraph (1) (g) (i) or (ii).

***qualified person***, in relation to a collecting society, means:

- (a) a member of the collecting society who is a relevant copyright owner or the agent of a relevant copyright owner; or
- (b) a relevant copyright owner who is not a member of the collecting society and whose agent, if any, is not a member.

## **Part 6A                      Infringement notices and forfeiture of infringing copies and devices**

### **Division 6A.1            Preliminary**

#### **23M      Purpose of Part**

- (1) The purpose of this Part is to set up a scheme, as an alternative to prosecution, to enable a person who is alleged to have committed an offence of strict liability against Division 5 of Part V of the Act, or Subdivision A or B of Division 3 of Part XIA of the Act, to:
  - (a) pay a penalty, specified in an infringement notice for the alleged offence, to the Commonwealth; and
  - (b) for an alleged offence against a provision of Division 5 of Part V of the Act (except subsections 132AQ (5), 132AR (5) and 132AS (5)), agree to forfeit to the Commonwealth:
    - (i) each article (if any), in the person's possession at the time and place of the issue of the infringement notice for the alleged offence, that is alleged to be an infringing copy of a work or other subject-matter and that is alleged to have been involved in the commission of the offence; and
    - (ii) each device (if any), in the person's possession at the time and place of the issue of the infringement notice for the alleged offence, that is alleged to have been made to be used for making an infringing copy of a work or other subject-matter and that is alleged to have been involved in the commission of the offence.
- (2) This Part does not:
  - (a) require an infringement notice to be given to a person for the alleged commission of an offence; or

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- (b) affect the liability of a person to prosecution for the commission of an alleged offence if an infringement notice is not given to the person for the offence; or
- (c) affect the liability of a person to prosecution for the commission of an alleged offence if an infringement notice is given to the person for the offence and the person does not pay the penalty stated in the notice for the offence in accordance with regulation 23U; or
- (d) limit or otherwise affect the penalty that may be imposed by a court on a person for an offence.

**23N      Definitions**

In this Part:

***authorised officer*** means:

- (a) a member of the Australian Federal Police, within the meaning of the *Australian Federal Police Act 1979*; or
- (b) a member of the police force (however described) of a State or Territory.

***infringement notice*** means an infringement notice under regulation 23P.

***infringement notice offence*** means an offence of strict liability under:

- (a) Division 5 of Part V of the Act; or
- (b) Subdivision A or B of Division 3 of Part XIA of the Act.

***infringing article***, in relation to an offence of strict liability against a provision of Division 5 of Part V of the Act (except subsections 132AQ (5), 132AR (5) and 132AS (5)), means an article that is alleged to be an infringing copy of a work or other subject-matter and that is alleged to have been involved in the commission of the offence.

***infringing device***, in relation to an offence of strict liability against a provision of Division 5 of Part V of the Act (except subsections 132AQ (5), 132AR (5) and 132AS (5)), means a device that is alleged to have been made to be used for making an infringing copy of a work or other subject-matter and that is alleged to have been involved in the commission of the offence.



*nominated person*, in relation to an infringement notice, means the person specified in the notice as the nominated person.

*recipient*, in relation to an infringement notice, means the person to whom the notice is given under subregulation 23P (1).

## **Division 6A.2      Forfeiture of infringing articles and devices**

### **230      Forfeiture of infringing articles and devices**

- (1) This regulation applies if:
  - (a) an authorised officer has reasonable grounds to believe that a person has committed an offence of strict liability against a provision of Division 5 of Part V of the Act (except subsections 132AQ (5), 132AR (5) and 132AS (5)); and
  - (b) the person possesses, at the time and place that the authorised officer forms the belief mentioned in paragraph (a), an infringing article or an infringing device in relation to the alleged offence.
- (2) The authorised person may inform the person (either orally or by written notice) that the person may avoid prosecution for the alleged offence if:
  - (a) the person agrees to forfeit, and does forfeit, to the Commonwealth all infringing articles and devices that the person possesses at that time and place in relation to the alleged offence; and
  - (b) the person pays the penalty specified in an infringement notice for the alleged offence in accordance with regulation 23U; and
  - (c) the infringement notice for the alleged offence is not withdrawn.
- (3) If the person agrees to forfeit to the Commonwealth all infringing articles and devices that the person possesses at that time and place in relation to the alleged offence, the authorised officer:

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- (a) may take possession of the infringing articles and devices;  
and
  - (b) must give the person a receipt for the infringing articles  
and devices taken into possession.
- (4) If the person pays the penalty specified in an infringement notice for the alleged offence, the nominated person must cause all infringing articles and devices in relation to the alleged offence that the person agreed to forfeit, and did forfeit, to the Commonwealth to be destroyed.

*Note* An infringement notice relating to an offence against a provision of Division 5 of Part V of the Act (except subsections 132AQ (5), 132AR (5) and 132AS (5)) may not be given if the recipient does not agree to forfeit to the Commonwealth all infringing articles and devices in the person's possession at that time and place in relation to the alleged offence — see regulation 23P.

## **Division 6A.3 Infringement notices**

### **Subdivision 6A.3.1 Contents of infringement notices**

#### **23P When an infringement notice can be given**

- (1) If:
- (a) an authorised officer has reasonable grounds to believe that a person has committed an infringement notice offence; and
  - (b) for an offence against a provision of Division 5 of Part V of the Act (except subsections 132AQ (5), 132AR (5) and 132AS (5)), the person has agreed to forfeit, and has forfeited, to the Commonwealth all infringing articles and devices in relation to the alleged offence in the person's possession at the time and place that the authorised officer forms the belief mentioned in paragraph (a);
- the authorised officer may give to the person an infringement notice relating to the alleged offence.
- (2) An infringement notice relating to an alleged offence must be given within 12 months after the day on which the offence is alleged to have been committed.

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- (3) If an infringement notice given to a person in relation to the alleged commission of a particular offence is withdrawn, an authorised officer may give the person a new infringement notice in relation to that alleged commission.

*Example for subregulation (3)*

An infringement notice given to a person in relation to the alleged commission of a particular offence may be withdrawn and a new infringement notice given to the person in relation to that alleged commission if the original infringement notice contained an error.

**23Q Contents of infringement notice**

An infringement notice:

- (a) must be in accordance with the form set out in Schedule 11C; and
- (b) may contain any other information that the authorised officer who gives it thinks necessary.

**Subdivision 6A.3.2 Penalties**

**23R Amount of penalty if infringement notice given**

The penalty payable under an infringement notice for the alleged commission of an infringement notice offence is:

- (a) for an individual — 12 penalty units; and
- (b) for a body corporate — 60 penalty units.

**23S Extension of time to pay penalty**

- (1) Within 28 days after receiving an infringement notice, the recipient may apply, in writing, to the nominated person for a further period of up to 28 days in which to pay the penalty stated in the notice.
- (2) The application must:
  - (a) specify the infringement notice's unique identification code; and
  - (b) set out the reasons for the application.

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- (3) Within 14 days after receiving the application, the nominated person must:
  - (a) grant or refuse a further period not longer than the period sought (but less than 28 days); and
  - (b) notify the recipient in writing of the decision and, if the decision is a refusal, the reasons for the decision.

**23T Payment of penalty by instalments**

- (1) Within 28 days after receiving an infringement notice, the recipient may apply, in writing, to the nominated person for permission to pay the amount of the infringement notice penalty by instalments.
- (2) The application must:
  - (a) specify the infringement notice's unique identification code; and
  - (b) set out the reasons for the application; and
  - (c) specify the amount and frequency of the instalments that the recipient proposes to pay.
- (3) Within 14 days after receiving the application, the nominated person must:
  - (a) grant or refuse to grant permission for payment by instalments; and
  - (b) give the recipient written notice of the decision, including:
    - (i) if permission is granted — the amount and frequency of the instalments); and
    - (ii) if permission is refused — the reasons for refusal.

**23U Time for payment of penalty**

The penalty stated in an infringement notice must be paid:

- (a) within 28 days after the day on which the notice is given to the recipient; or
- (b) if the recipient applies for a further period of time in which to pay the penalty, and the application is granted — within the further period allowed; or

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- (c) if the recipient applies for a further period of time in which to pay the penalty, and the application is refused — within 7 days after the notice of the refusal is given to the recipient; or
- (d) if the recipient applies for permission to pay the penalty by instalments, and permission is granted — in accordance with the permission; or
- (e) if the recipient applies for permission to pay the penalty by instalments, and permission is refused — within 7 days after the notice of the refusal is given to the recipient; or
- (f) if the recipient applies for the notice to be withdrawn, and the application is refused — within 28 days after the notice of the refusal is given to the recipient.

**23V Effect of payment of penalty and forfeiture of infringing articles and devices**

- (1) The effects mentioned in subregulation (3) apply in relation to an alleged offence against a provision of Subdivision A or B of Division 3 of Part XIA of the Act, or against subsection 132AQ (5), 132AR (5) or 132AS (5) of the Act, if:
  - (a) an infringement notice is given in relation to the alleged offence; and
  - (b) the infringement notice is not withdrawn; and
  - (c) the recipient pays the penalty stated in the notice in accordance with regulation 23U.
- (2) The effects mentioned in subregulation (3) apply in relation to an alleged offence against a provision of Division 5 of Part V of the Act (except subsections 132AQ (5), 132AR (5) and 132AS (5)) if:
  - (a) an infringement notice is given in relation to the alleged offence; and
  - (b) the infringement notice is not withdrawn; and
  - (c) the recipient pays the penalty stated in the notice in accordance with regulation 23U; and

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- (d) the recipient agrees to forfeit, and has forfeited, to the Commonwealth all infringing articles and devices that the recipient possessed in relation to the alleged offence at the time and place at which the infringement notice was given.
- (3) The effects are:
  - (a) any liability of the recipient for the alleged offence is discharged; and
  - (b) no prosecution may be brought against the recipient for the alleged offence; and
  - (c) the recipient is not taken to have admitted guilt of the alleged offence; and
  - (d) the recipient is not taken to have been convicted of the offence.

**Subdivision 6A.3.3      Withdrawal of infringement notices**

**23W      Withdrawal of infringement notice by nominated person**

- (1) Within 28 days after receiving an infringement notice, the recipient may apply, in writing, to the nominated person for the infringement notice to be withdrawn.
- (2) The application must:
  - (a) specify the infringement notice's unique identification code; and
  - (b) set out the reasons for the application.
- (3) Within 14 days after receiving the application, the nominated person must:
  - (a) withdraw or refuse to withdraw the notice; and
  - (b) notify the recipient in writing of the decision and, if the decision is a refusal, the reasons for the decision.
- (4) Without limiting subregulation (3), the nominated person may withdraw the infringement notice after taking into account:
  - (a) whether the recipient has been previously convicted of an offence against the Act; or

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- (b) the circumstances in which the offence specified in the notice is alleged to have been committed; or
  - (c) whether an infringement notice has previously been given to the recipient in relation to an offence of the same kind as the offence specified in the notice, and in relation to which the recipient paid the penalty under the notice; or
  - (d) any other relevant matter.
- (5) If the nominated person has not withdrawn, or refused to withdraw, the notice within the period mentioned in subregulation (3), the nominated person is taken to have refused to withdraw the notice.
- (6) Application may be made to the Administrative Appeals Tribunal for review of a decision of the nominated person to refuse to withdraw an infringement notice.

*Note* Under section 27A of the *Administrative Appeals Tribunal Act 1975*, the decision-maker must give to any person whose interests are affected by the decision notice, in writing or otherwise, of the making of the decision and the person's right to have the decision reviewed.

**23X Withdrawal of infringement notice by authorised officer**

- (1) An authorised officer may withdraw an infringement notice given by him or her without an application under regulation 23W having been made.
- (2) Without limiting subregulation (1), the authorised officer may withdraw the infringement notice after taking into account a matter mentioned in paragraph 23W (4) (a), (b), (c) or (d).

**23Y Notice of withdrawal of infringement notices**

A notice withdrawing an infringement notice:

- (a) must include the following information:
  - (i) the full name, or surname and initials, and address of the recipient;
  - (ii) the date the infringement notice was given;
  - (iii) the infringement notice's unique identification code; and

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(b) must state that the notice is withdrawn.

**23Z      Refund of penalty**

If an infringement notice is withdrawn after the penalty stated in it has been paid, the Commonwealth must refund the amount of the penalty to the person who paid it.



## **Part 7                      Miscellaneous**

### **24                      Effect of suspension of orders of Copyright Tribunal**

Where an order of the Copyright Tribunal is suspended:

- (a) paragraph (a) of subsection (6) of section 154, and subsections (8) and (10) of section 155, of the Act operate during the period of the suspension as if the order had not been made;
- (b) paragraph (b) of subsection (6) of section 154 of the Act operates as if the order had not been suspended; and
- (c) section 159 of the Act does not operate in relation to the order in respect of the period of the suspension.

### **25                      Notification of use of copyright material for services of the Crown**

- (1) For the purposes of subsection (4) of section 183 of the Act, the owner of a copyright shall be informed of the doing of any act comprised in the copyright by means of a notice given in accordance with this regulation.
- (2) If the person giving the notice on behalf of the Commonwealth or the State knows the name, and an address for service in Australia, of the owner of the copyright or, where a copyright owner has authorized an agent to deal on behalf of that copyright owner with the copyright in the work, or other subject-matter, that is the subject of the notice, of that owner or agent, that notice shall be given by service of the notice on that owner, or that owner or agent, as the case requires.
- (3) If the person giving the notice on behalf of the Commonwealth or the State:
  - (a) knows the name of the owner of the copyright or, where a copyright owner has authorized an agent to deal on behalf of the copyright owner with the copyright in the work, or other subject-matter, that is the subject of the notice, of that owner or agent; and

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- (b) knows an address outside Australia of a place of residence or business, but no address for service in Australia, of that owner, or that owner or agent as the case requires;

the notice shall be given by service of the notice by post on that owner, or on that owner or agent, as the case requires, at that address outside Australia.

- (4) If the person giving the notice on behalf of the Commonwealth or the State does not know the name or address, or knows the name, but no address of a place of residence or business, of the owner of the copyright or, where a copyright owner has authorized an agent to deal on behalf of the copyright owner with the copyright in the work, or other subject-matter, that is the subject of the notice, of that owner or agent, the notice shall be given by being published in the *Commonwealth of Australia Gazette* or *Government Gazette* of the State, as the case requires.
- (5) A notice under this regulation shall:
- (a) be given in the name of the Commonwealth or the State, as the case may be;
  - (b) state:
    - (i) the International Standard Book Number (if any) in respect of the work or other subject-matter concerned where that International Standard Book Number can be ascertained from that work or other subject-matter; and
    - (ii) where no such International Standard Book Number can be so ascertained, or where that International Standard Book Number is insufficient to enable the work or other subject-matter concerned to be identified, as the case may be— the title, if any of that work or other subject-matter and, if that title is not sufficient to enable the work or other subject-matter to be identified, description of the work or other subject-matter that is sufficient to enable it to be so identified;
  - (c) specify the act to which the notice relates;

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- (d) state whether the act has been done by the Commonwealth or the State or by a person authorized by the Commonwealth or the State;
- (e) where the act has been done by a person authorized by the Commonwealth or the State — state the name of that person; and
- (f) state that the purpose of the notice is to inform the owner in pursuance of subsection (4) of section 183 of the Act of the doing of the act.

**25AA Other information and particulars for notices under section 195AT**

- (1) For paragraph 195AT (2A) (c) of the Act, the following information and particulars are prescribed for inclusion in a notice to an author in relation to an artistic work that is affixed to or forms part of a building:
  - (a) the date of the notice;
  - (b) the name (if any) and address of the building;
  - (c) a brief description of the work and its location in or on the building;
  - (d) the name and address of the owner of the building;
  - (e) the owner's contact details during business hours, including work telephone and facsimile numbers, and email address (if available);
  - (f) the name of the person who can provide the author with access to the building or the work, or both, as applicable, and that person's contact details;
  - (g) the business hours during which the author may reasonably have access to the building or to the work, or both, as applicable;
  - (h) in relation to a change in the building (other than by reason of relocation, demolition or destruction), a brief description of the change and the extent (if any) to which the work is likely to be affected;
  - (i) in relation to the relocation of the building, a brief description of the place and form of the relocation, and the extent to which the work is likely to be affected.

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- (2) For paragraph 195AT (3A) (c) of the Act, the following information and particulars are prescribed for inclusion in a notice to an author in relation to a building, or to any plans or instructions used in the construction of the building or a part of the building:
- (a) the date of the notice;
  - (b) the name (if any) and address of the building;
  - (c) the name and address of the owner of the building;
  - (d) the owner's contact details during business hours, including work telephone and facsimile numbers, and email address (if available);
  - (e) the name of the person who can provide the author with access to the building and that person's contact details;
  - (f) the business hours during which the author may reasonably have access to the building;
  - (g) in relation to a change in the building (other than by reason of relocation, demolition or destruction), a brief description of the change and the extent (if any) to which the building is likely to be affected;
  - (h) in relation to the relocation of the building, a brief description of the place and form of the relocation and the extent to which the building is likely to be affected.
- (3) For paragraph 195AT (4B) (c) of the Act, the following information and particulars are prescribed for inclusion in a notice to an author in relation to the removal or relocation of a moveable artistic work situated at a place that is accessible to the public:
- (a) the date of the notice;
  - (b) a brief description of the moveable artistic work;
  - (c) the address of the place or description of the location, at which the moveable artistic work may be accessed;
  - (d) the name and address of the remover of the moveable artistic work;
  - (e) the remover's contact details during business hours, including work telephone and facsimile numbers, and email address (if available);

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- (f) if necessary, the name of the person who can provide the author with access to the place and the moveable artistic work, as applicable, and that person's contact details;
  - (g) if necessary, the business hours during which the author may reasonably have access to the place and to the moveable artistic work;
  - (h) if the moveable artistic work is to be permanently removed or relocated, the address or description of the new location or storage location (if not open to the public) of the moveable artistic work;
  - (i) if the removal or relocation of the moveable artistic work will result in a change of ownership in the work, the name and address of the new owner.
- (4) In this regulation, *author* includes a person representing the author.

**25A Prescribed retention period for the purposes of Part X of the Act**

The prescribed retention period for the purposes of Part X of the Act in relation to a copy of the whole or a part of a work is a period of 4 years after the making of that copy in reliance on section 49, 50, 51A or 110B, as the case requires, of the Act.

**25B Retention of declarations — subsection 203G (3) of the Act**

For subsection 203G (3) of the Act, the retention period for a declaration under subsection 116A (3) or 132 (5F) of the Act is 6 years from the day on which the declaration is made.

**26 International organizations to which the Act applies**

The organizations specified in Schedule 12 to these Regulations are declared to be international organizations to which the Act applies.

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**27 Service of documents in Australia**

- (1) A document that is required or permitted by these Regulations to be served on a person in Australia (whether 'serve', 'give', 'send' or any other expression is used) 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 in Australia under a law of a State or Territory of the Commonwealth, 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 Australia; 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 Australia of the person last known to the person sending the document.
- (2) In the application of the last preceding subregulation in relation to a notice under paragraph (a) of subregulation (2) of regulation 10 of these Regulations, a reference to post shall be read as a reference to registered post.
- (3) For paragraphs 195AT (2A) (a), (3A) (a) and (4B) (a) of the Act, the giving of a notice to an author, or person representing the author, (*addressee*) must be:
  - (a) by registered post; or
  - (b) by a courier service that provides means of confirming delivery to, or receipt by, the addressee.

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## Schedule 3

(regulations 4B and 17A)

### **PRESCRIBED FORM OF NOTICE FOR SECTIONS 39A AND 104B OF THE COPYRIGHT ACT 1968, IN RELATION TO THE REPRODUCTION OF WORKS AND THE COPYING OF PUBLISHED EDITIONS**

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

#### WARNING

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. Certain dealings with copyright will not constitute an infringement, including:

- A reproduction that is a fair dealing under the *Copyright Act 1968 (the Act)*, including a fair dealing for the purposes of research or study; or
- A reproduction that is authorised by the copyright owner.

It is a fair dealing to make a reproduction for the purposes of research or study, of one or more articles on the same subject in a periodical publication, or, in the case of any other work, of a reasonable portion of a work.

In the case of a published work in hardcopy form that is not less than 10 pages and is not an artistic work, 10% of the number of pages, or one chapter, is a reasonable portion.

In the case of a published work in electronic form only, a reasonable portion is not more than, in the aggregate, 10% of the number of words in the work.

More extensive reproduction may constitute fair dealing. To determine whether it does, it is necessary to have regard to the criteria set out in subsection 40 (2) of the Act.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.



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**Schedule 3A      Record of making of  
broadcast by or on behalf of a  
holder of a print disability  
radio licence of the whole or  
part of an article contained in  
a periodical publication**

(paragraph 4C (3) (a))

<b>Item</b>	<b>Matter</b>	<b>Particulars</b>
1	The time and date of the making of the broadcast	
2	If the International Standard Serial Number in respect of the periodical publication is recorded in the periodical publication — that number	
3	If the International Standard Serial Number in respect of the publication is not so recorded — the name of the periodical publication	
4	The title or description of the article	
5	The name of the author of the article (if that name is known)	
6	The volume, or volume and number, as the case requires, of the periodical publication containing the article	
7	The page numbers of the pages in that volume, or in that number of that volume, that have been broadcast, or, in a case where a page so broadcast does not bear a page number, such description of the page as will enable it to be identified	

**Schedule 3B Record of making of broadcast by or on behalf of a holder of a print disability radio licence of the whole or part of a work not being an article contained in a periodical publication**

(paragraph 4C (3) (b))

<b>Item</b>	<b>Matter</b>	<b>Particulars</b>
1	The time and date of the making of the broadcast	
2	If the International Standard Book Number in respect of the work is recorded in the edition of the work copied — that number	
3	If the International Standard Book Number in respect of the work is not so recorded — (a) the title or description of the work; (b) the name of the publisher of the edition of the work; and (c) the name of the author of the work (if that name is known)	
4	The page numbers of the pages in the edition of the work that have been broadcast or, in a case where a page so broadcast does not bear a page number, such description of the page as will enable it to be identified	

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## Schedule 4

(regulation 4D)

### FORM OF NOTICE FOR PARAGRAPH 49 (7A) (c) OF THE COPYRIGHT ACT 1968

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

#### WARNING

This material has been provided to you pursuant to section 49 of the *Copyright Act 1968 (the Act)* for the purposes of research or study. The contents of the material may be subject to copyright protection under the Act.

Further dealings by you with this material may be a copyright infringement. To determine whether such a communication would be an infringement, it is necessary to have regard to the criteria set out in Part 3, Division 3 of the Act.

## Schedule 8

(regulation 6)

### COUNTRIES IN RELATION TO WHICH DIVISION 6 OF PART III OF THE ACT APPLIES

Algeria	Ghana	Nigeria
Andorra	Greece	Norway
Argentina	Guatemala	Pakistan
Austria	Guinea	Panama
Bahamas	Guinea-Bissau	Paraguay
Bangladesh	Haiti	Peru
Barbados	Holy See	Philippines
Belgium	Honduras	Poland
Belize	Hungary	Portugal
Benin	Iceland	Romania
Bolivia	India	Rwanda
Brazil	Ireland	Saint Vincent and the Grenadines
Bulgaria	Israel	Senegal
Burkina Faso	Italy	Singapore
Cambodia	Japan	South Africa
Cameroon, Republic of	Kenya	Spain
Canada	Korea, Republic of	Sri Lanka
Central African Republic	Lao People's Democratic Republic	Suriname
Chad	Lebanon	Sweden
Chile	Lesotho, Kingdom of	Switzerland
Colombia	Liberia	Thailand
Congo	Libyan Arab Jamahiriya	The Russian Federation
Costa Rica	Liechtenstein	The United Kingdom
Côte d'Ivoire	Luxembourg	Togo
Cuba	Madagascar	Trinidad and Tobago
Cyprus	Malawi	Tunisia
Czech and Slovak Federal Republic	Malaysia	Turkey
Denmark	Mali	United States of America
Dominican Republic		Uruguay

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Ecuador	Malta	Venezuela
Egypt, Arab Republic of	Mauritania	Yugoslavia
El Salvador	Mauritius	Zaire
Fiji	Mexico	Zambia
Finland	Monaco	Zimbabwe
France	Morocco	
Gabon	Netherlands	
Germany, Federal Republic of	New Zealand	
	Nicaragua	
	Niger	

## **Schedule 9**

(regulation 17A)

### **PRESCRIBED FORM OF NOTICE FOR SECTION 104B OF THE COPYRIGHT ACT 1968 IN RELATION TO THE COPYING OF AUDIO-VISUAL ITEMS**

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

#### **WARNING**

Copyright owners are entitled to take legal action against persons who infringe their copyright. Unless otherwise permitted by the *Copyright Act 1968 (the Act)*, unauthorised use of audio-visual items in which copyright subsists may infringe copyright in that item.

It is not an infringement of copyright in an audio-visual item to use that item in a manner that is a fair dealing under section 103C of the Act.

Section 103C of the Act relates to fair dealing for the purpose of research or study and sets out the matters that must be considered in determining whether a reproduction of an audio-visual item is a fair dealing.

A court may impose penalties and award damages in relation to offences and infringements relating to copyright material.

Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.

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## Schedule 10 Forms for Part 3A

(regulations 20E, 20F, 20I, 20K, 20Q and 20T)

### Part 1 Form of notification in relation to cached copyright material

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

NOTIFICATION THAT CACHED COPYRIGHT MATERIAL HAS  
BEEN REMOVED OR ACCESS HAS BEEN DISABLED AT THE  
ORIGINATING SITE

TO [*name of carriage service provider*]

1. I, the person whose name is stated below, issue this notification for the purposes of condition 3 of item 3 of the table in subsection 116AH (1) of the *Copyright Act 1968* and regulation 20E of the *Copyright Regulations 1969*.
2. I am the \*owner/\*agent of the owner of the copyright in the cached copyright material specified in the Schedule (the *specified cached copyright material*).
3. I believe, in good faith, that the specified cached copyright material has been removed, or access to it has been disabled, at the originating site.
4. I have taken reasonable steps to ensure that the information and statements in this notification are accurate.

NAME OF \*OWNER/\*AGENT OF OWNER:

ADDRESS:

TELEPHONE NUMBER:

FAX NUMBER:

E-MAIL ADDRESS:

[signature]

\*Owner/\*Agent of owner

## SCHEDULE

**DESCRIPTION OF CACHED COPYRIGHT MATERIAL:** *[insert sufficient information to enable the carriage service provider to identify the cached copyright material that has been removed, or to which access has been disabled, at the originating site]*

**INFORMATION ABOUT THE ORIGINATING SITE:** *[insert sufficient information to enable the carriage service provider to identify the originating site from which the cached copyright material has been removed or at which access has been disabled]*

**DESCRIPTION OF CACHED COPYRIGHT MATERIAL ON CARRIAGE SERVICE PROVIDER'S SYSTEM OR NETWORK:** *[insert sufficient information to enable the carriage service provider to identify the cached copyright material on its system or network that is to be removed, or to which access is to be disabled]*

\* Omit if inapplicable

*Note 1* Strict compliance with this form is not required and substantial compliance is sufficient — see section 25C of the *Acts Interpretation Act 1901*.

*Note 2* If this notification is issued by electronic communication, the requirement to sign the notification is taken to have been met if the method described in subregulation 20D (2) of the *Copyright Regulations 1969* is used.

*Note 3* An action for a civil remedy may be brought by a person who suffers loss or damage because of a material representation made knowingly in this notification — see regulation 20X of the *Copyright Regulations 1969*. In addition, it is an offence under the *Criminal Code* to issue this notification knowing that it is false or misleading in a material particular — see section 137.2 of the *Criminal Code*.



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## Part 2 Form of notice in relation to copyright material found to be infringing by an Australian court

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

### NOTICE RELATING TO COPYRIGHT MATERIAL THAT HAS BEEN FOUND TO BE INFRINGING BY AN AUSTRALIAN COURT

TO [*name of carriage service provider*]

1. I, the person whose name is stated below, issue this notice for the purposes of:  
\*condition 2 of item 4 of the table in subsection 116AH(1) of the *Copyright Act 1968* and regulation 20F of the *Copyright Regulations 1969*.  
OR  
\*condition 2 of item 5 of the table in subsection 116AH(1) of the *Copyright Act 1968* and regulation 20F of the *Copyright Regulations 1969*.
2. I am the \*owner/\*agent of the owner of the copyright in the copyright material specified in the Schedule (the *specified copyright material*), being:  
\*copyright material residing on your system or network.  
OR  
\*copyright material to which you have provided a reference on your system or network.
3. I believe, in good faith, that the specified copyright material has been found to be infringing by an Australian court.
4. I have taken reasonable steps to ensure that the information and statements in this notice are accurate.

NAME OF \*OWNER/\*AGENT OF OWNER:

ADDRESS:

TELEPHONE NUMBER:

FAX NUMBER:

E-MAIL ADDRESS:

[signature]

\*Owner/\*Agent of owner

### SCHEDULE

DESCRIPTION OF COPYRIGHT MATERIAL: *[insert sufficient information to enable the carriage service provider to identify the copyright material that has been found to be infringing by an Australian court]*

LOCATION OF COPYRIGHT MATERIAL RESIDING ON CARRIAGE SERVICE PROVIDER'S SYSTEM OR NETWORK OR REFERENCE TO COPYRIGHT MATERIAL PROVIDED BY CARRIAGE SERVICE PROVIDER ON ITS SYSTEM OR NETWORK: *[insert sufficient information to enable the carriage service provider to locate on its system or network the copyright material that has been found to be infringing by an Australian court, or the reference provided by the carriage service provider on its system or network to copyright material that has been found to be infringing by an Australian court]*

\* *Omit if inapplicable*

*Note 1* Strict compliance with this form is not required and substantial compliance is sufficient — see section 25C of the *Acts Interpretation Act 1901*.

*Note 2* If this notice is issued by electronic communication, the requirement to sign the notice is taken to have been met if the method described in subregulation 20D (2) of the *Copyright Regulations 1969* is used.

*Note 3* An action for a civil remedy may be brought by a person who suffers loss or damage because of a material representation made knowingly in this notice — see regulation 20X of the *Copyright Regulations 1969*. In addition, it is an offence under the *Criminal Code* to issue this notice knowing that it is false or misleading in a material particular — see section 137.2 of the *Criminal Code*.

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**Part 3 Form of notice of claimed infringement  
by owner or agent — copyright material**

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

NOTICE OF CLAIMED INFRINGEMENT OF COPYRIGHT BY  
COPYRIGHT OWNER OR AGENT —  
COPYRIGHT MATERIAL

TO [*name of carriage service provider*]

1. I, the person whose name is stated below, issue this notice for the purposes of condition 3 of item 4 of the table in subsection 116AH (1) of the *Copyright Act 1968* and regulation 20I of the *Copyright Regulations 1969*.
2. I am the \*owner/\*agent of the owner of the copyright in the copyright material specified in the Schedule (the *specified copyright material*), being copyright material residing on your system or network.

*Omit the following paragraph if this notice is being completed by the agent of the copyright owner.*

- \*3. I believe, in good faith, that the storage of the specified copyright material on your system or network is not authorised by me or a licensee, or the *Copyright Act 1968*, and is therefore an infringement of the copyright in that material.

*Omit the following paragraph if this notice is being completed by the copyright owner.*

- \*3. I believe, in good faith, that the storage of the specified copyright material on your system or network is not authorised by the copyright owner or a licensee of the copyright owner, or the *Copyright Act 1968*, and is therefore an infringement of the copyright in that material.
4. I have taken reasonable steps to ensure that the information and statements in this notice are accurate.

NAME OF \*OWNER/\*AGENT OF OWNER:

ADDRESS:

TELEPHONE NUMBER:

FAX NUMBER:

E-MAIL ADDRESS:

[signature]

\*Owner/\*Agent of owner

### SCHEDULE

DESCRIPTION OF COPYRIGHT MATERIAL: *[insert sufficient information to enable the carriage service provider to identify the copyright material in respect of which the infringement is claimed]*

LOCATION OF COPYRIGHT MATERIAL RESIDING ON CARRIAGE SERVICE PROVIDER'S SYSTEM: *[insert sufficient information to enable the carriage service provider to locate on its system or network the copyright material in respect of which the infringement is claimed]*

\* Omit if inapplicable

*Note 1* Strict compliance with this form is not required and substantial compliance is sufficient — see section 25C of the *Acts Interpretation Act 1901*.

*Note 2* If this notice is issued by electronic communication, the requirement to sign the notice is taken to have been met if the method described in subregulation 20D (2) of the *Copyright Regulations 1969* is used.

*Note 3* An action for a civil remedy may be brought by a person who suffers loss or damage because of a material representation made knowingly in this notice — see regulation 20X of the *Copyright Regulations 1969*. In addition, it is an offence under the *Criminal Code* to issue this notice knowing that it is false or misleading in a material particular — see section 137.2 of the *Criminal Code*.

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**Part 4 Form of counter-notice in response to  
notice of claimed infringement by owner  
or agent**

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

COUNTER-NOTICE IN RESPONSE TO  
NOTICE OF CLAIMED INFRINGEMENT OF COPYRIGHT BY  
COPYRIGHT OWNER OR AGENT

TO [*name of carriage service provider*]

1. I, the individual or body corporate whose name is stated below, having received a copy of a notice of claimed infringement from you under regulation 20J of the *Copyright Regulations 1969* in relation to the copyright material specified in the Schedule (the ***specified copyright material***), issue this counter-notice for the purposes of condition 3 of item 4 of the table in subsection 116AH (1) of the *Copyright Act 1968* and regulation 20K of the *Copyright Regulations 1969*.
2. I am the user who directed you to store the specified copyright material on your system or network.
3. I believe, in good faith on the grounds set out in paragraph 4, that the notice of claimed infringement was issued because of:
  - \*(a) a mistake as to fact or law in relation to the specified copyright material; or
  - \*(b) a mistake in identifying the specified copyright material.
4. The grounds for my belief in the statement in paragraph 3 are as follows:  
[*state the grounds*]

*Omit the following paragraph if the user does NOT live in, or carry on a business in, Australia.*

- \*5. I agree to comply with the orders of a court having jurisdiction in the place where I live or undertake my business, being a place in Australia.

*Omit the following paragraph if the user lives in, or carries on a business in, Australia.*

- \*5. I agree to comply with the orders of a court having jurisdiction in a place in Australia where you, the carriage service provider, are located and where an action for infringement of the copyright in the specified copyright material could be brought.
6. I will accept service of process in any action for infringement of the copyright in the specified copyright material.
7. I have taken reasonable steps to ensure that the information and statements in this counter-notice are accurate.

NAME OF \*INDIVIDUAL/\*BODY CORPORATE:

ADDRESS:

TELEPHONE NUMBER:

FAX NUMBER:

E-MAIL ADDRESS:

[signature]

User

#### SCHEDULE

DESCRIPTION OF COPYRIGHT MATERIAL: *[insert sufficient information to enable the carriage service provider to identify the copyright material in respect of which the infringement is claimed]*

LOCATION OF COPYRIGHT MATERIAL ON CARRIAGE SERVICE PROVIDER'S SYSTEM OR NETWORK: *[insert sufficient information to enable the carriage service provider to identify where on its system or network the copyright material in respect of which the infringement is claimed was stored]*

\* *Omit if inapplicable*

*Note 1* Strict compliance with this form is not required and substantial compliance is sufficient — see section 25C of the *Acts Interpretation Act 1901*.

*Note 2* A counter-notice must be issued to the carriage service provider's designated representative within 3 months after the user receives the notice of claimed infringement to which the counter-notice relates.

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*Note 3* If this counter-notice is issued by electronic communication, the requirement to sign the counter-notice is taken to have been met if the method described in subregulation 20D (2) of the *Copyright Regulations 1969* is used.

*Note 4* An action for a civil remedy may be brought by a person who suffers loss or damage because of a material representation made knowingly in this counter-notice — see regulation 20X of the *Copyright Regulations 1969*. In addition, it is an offence under the *Criminal Code* to issue this counter-notice knowing that it is false or misleading in a material particular — see section 137.2 of the *Criminal Code*.

*Note 5* As soon as practicable after the carriage service provider receives this counter-notice, the carriage service provider must send a copy of it to the copyright owner or agent, together with a notice stating that if the owner or agent does not, within 10 working days after the date the notice was sent, bring an action seeking a court order to restrain the activity that is claimed to be infringing, the carriage service provider will restore, or enable access to, the copyright material on its system or network — see regulation 20L of the *Copyright Regulations 1969*.

*Note 6* Information that could identify a user who is an individual may be disclosed by the carriage service provider in the copy of this counter-notice or the notice referred to in Note 5 sent to the copyright owner or agent if the disclosure is consistent with the *Telecommunications Act 1997* and the *Privacy Act 1988*. However, if the carriage service provider is required by a court to disclose identifying information about a user who is an individual, the information must be disclosed.

## **Part 5 Form of counter-notice in response to takedown of copyright material other than following notice by owner or agent**

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

### COUNTER-NOTICE IN RESPONSE TO TAKEDOWN OF COPYRIGHT MATERIAL OTHER THAN FOLLOWING NOTICE BY COPYRIGHT OWNER OR AGENT

TO [*name of carriage service provider*]

1. I, the individual or body corporate whose name is stated below, having received a notice from you under regulation 20P of the *Copyright Regulations 1969* in relation to the copyright material specified in the Schedule (the ***specified copyright material***), issue this counter-notice for the purposes of condition 3 of item 4 of the table in subsection 116AH (1) of the *Copyright Act 1968* and regulation 20Q of the *Copyright Regulations 1969*.
2. I am the user who directed you to store the specified copyright material on your system or network.
3. I believe, in good faith on the grounds set out in paragraph 4, that you have removed, or disabled access to, the specified copyright material because of:
  - \*(a) a mistake as to fact or law in relation to the specified copyright material; or
  - \*(b) a mistake in identifying the specified copyright material.
4. The grounds for my belief in the statement in paragraph 3 are as follows:  
[*state the grounds*]
5. I have taken reasonable steps to ensure that the information and statements in this counter-notice are accurate.



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NAME OF \*INDIVIDUAL/\*BODY CORPORATE:

ADDRESS:

TELEPHONE NUMBER:

FAX NUMBER:

E-MAIL ADDRESS:

[signature]

User

### SCHEDULE

DESCRIPTION OF COPYRIGHT MATERIAL: *[insert sufficient information to enable the carriage service provider to identify the copyright material that has been removed, or to which access has been disabled]*

LOCATION OF COPYRIGHT MATERIAL ON CARRIAGE SERVICE PROVIDER'S SYSTEM OR NETWORK: *[insert sufficient information to enable the carriage service provider to identify where on its system or network the copyright material that has been removed, or to which access has been disabled, was stored]*

\* *Omit if inapplicable*

*Note 1* Strict compliance with this form is not required and substantial compliance is sufficient — see section 25C of the *Acts Interpretation Act 1901*.

*Note 2* A counter-notice must be issued to the carriage service provider's designated representative within 3 months after the user receives the notice to which the counter-notice relates.

*Note 3* If this counter-notice is issued by electronic communication, the requirement to sign the counter-notice is taken to have been met if the method described in subregulation 20D (2) of the *Copyright Regulations 1969* is used.

*Note 4* An action for a civil remedy may be brought by a person who suffers loss or damage because of a material representation made knowingly in this counter-notice — see regulation 20X of the *Copyright Regulations 1969*. In addition, it is an offence under the *Criminal Code* to issue this counter-notice knowing that it is false or misleading in a material particular — see section 137.2 of the *Criminal Code*.

*Note 5* If the carriage service provider is satisfied, on the basis of the information and statements in this counter-notice, that the specified copyright material is not, or is not likely to be, infringing, the carriage service provider must restore, or enable access to, the copyright material on its system or network — see regulation 20R of the *Copyright Regulations 1969*.

**Part 6 Form of notice of claimed infringement  
by owner or agent — reference to  
copyright material**

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

NOTICE OF CLAIMED INFRINGEMENT OF COPYRIGHT BY  
COPYRIGHT OWNER OR AGENT —  
REFERENCE TO COPYRIGHT MATERIAL

TO [*name of carriage service provider*]

1. I, the person whose name is stated below, issue this notice for the purposes of condition 3 of item 5 of the table in subsection 116AH (1) of the *Copyright Act 1968* and regulation 20T of the *Copyright Regulations 1969*.
2. I am the \*owner/\*agent of the owner of the copyright in the copyright material specified in the Schedule (the *specified copyright material*), being copyright material to which you have provided a reference on your system or network.
3. I believe, in good faith, that the specified copyright material is infringing under the *Copyright Act 1968*.
4. I have taken reasonable steps to ensure that the information and statements in this notice are accurate.

NAME OF \*OWNER/\*AGENT OF OWNER:

ADDRESS:

TELEPHONE NUMBER:

FAX NUMBER:

E-MAIL ADDRESS:

[*signature*]

\*Owner/\*Agent of owner

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## SCHEDULE

**DESCRIPTION OF COPYRIGHT MATERIAL:** *[insert sufficient information to enable the carriage service provider to identify the copyright material in respect of which the infringement is claimed]*

**LOCATION OF REFERENCE PROVIDED BY THE CARRIAGE SERVICE PROVIDER ON ITS SYSTEM OR NETWORK:** *[insert sufficient information to enable the carriage service provider to locate on its system or network the reference provided by the carriage service provider to the copyright material that is claimed to be infringing]*

\* *Omit if inapplicable*

*Note 1* Strict compliance with this form is not required and substantial compliance is sufficient — see section 25C of the *Acts Interpretation Act 1901*.

*Note 2* If this notice is issued by electronic communication, the requirement to sign the notice is taken to have been met if the method described in subregulation 20D (2) of the *Copyright Regulations 1969* is used.

*Note 3* An action for a civil remedy may be brought by a person who suffers loss or damage because of a material representation made knowingly in this notice — see regulation 20X of the *Copyright Regulations 1969*. In addition, it is an offence under the *Criminal Code* to issue this notice knowing that it is false or misleading in a material particular — see section 137.2 of the *Criminal Code*.

## Schedule 10A Prescribed acts

(regulation 20Z)

Item	Topic	Description of prescribed act
1	Interoperability with computer programs	<p>1.1 The reproduction or adaptation by a person of a computer program of a kind mentioned in section 47D of the Act to achieve interoperability of an independently created article with the program or any other program in the circumstances mentioned in that section</p> <p><i>Note</i> For the doing of an act to achieve interoperability with an independently created computer program, see subsections 116AN (3) and 132APC (3) of the Act</p>
2	Educational institutions	2.1 The reproduction or communication by, or on the premises of, an educational institution of copyright material of a kind, and in the circumstances, mentioned in Division 2A of Part VB of the Act
3	Assistance to persons with a print disability	3.1 The reproduction or communication by an institution assisting persons with a print disability for provision of assistance to those persons of copyright material of a kind, and in the circumstances, mentioned in Division 3 of Part VB of the Act
4	Libraries or archives	<p>4.1 The reproduction or communication by a library of a kind mentioned in section 49 of the Act, or archives, of part or the whole of an article or published work to a person for research or study in the circumstances mentioned in that section</p> <p>4.2 The reproduction or communication by a library or archives of part or the whole of an article or published work to another library or archives in the circumstances mentioned in section 50 of the Act</p>

Item	Topic	Description of prescribed act
4.3		<p>The reproduction or communication by a library or archives of:</p> <ul style="list-style-type: none"> <li>(a) a work for a purpose, and in the circumstances, mentioned in section 51A of the Act; and</li> <li>(b) an unpublished sound recording or cinematograph film for research or study, or with a view to publication, in the circumstances mentioned in section 110A of the Act; and</li> <li>(c) a sound recording or cinematograph film for the preservation or replacement of the sound recording or cinematograph film, or for research, in the circumstances mentioned in section 110B of the Act</li> </ul>
5	Sound recordings for broadcasting	<p>5.1 The making of a copy of a sound recording in association with other matter solely for broadcasting it in the circumstances mentioned in section 107 of the Act</p> <p>5.2 The broadcasting of a sound recording in the circumstances mentioned in section 109 of the Act</p>
6	Malfunctioning technological protection measures	<p>6.1 The gaining of access to copyright material to which a technological protection measure has been applied if:</p> <ul style="list-style-type: none"> <li>(a) the technological protection measure is not operating normally; and</li> <li>(b) a replacement technological protection measure is not reasonably available</li> </ul> <p>6.2 The gaining of access to copyright material that is protected by a technological protection measure that interferes with or damages a product in which it is installed (the <i>host product</i>) or another product used in conjunction with the host product:</p>

<b>Item</b>	<b>Topic</b>	<b>Description of prescribed act</b>
		(a) to prevent damage, or further damage, to the host product or another product by the technological protection measure; or (b) to repair the host product or another product (if circumvention of the technological protection measure is necessary to enable the repair to be carried out)

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## Schedule 11

(regulation 23)

### COMMONWEALTH OF AUSTRALIA

#### Copyright Regulations

#### NOTICE FOR PURPOSES OF REGULATION 23

To the Collector of Customs of Norfolk Island.

I, \_\_\_\_\_, of \_\_\_\_\_, being the owner [*or agent of the owner*] of the copyright in the work [*or works*] specified in the Schedule to this notice give you notice that I object [*or, where notice is given by the agent, that* \_\_\_\_\_ objects] to the importation into Norfolk Island [*here specify the period during which importation is objected to*] of copies of the work [*or works*] to which regulation 23 of the Copyright Regulations applies.

Dated \_\_\_\_\_

[*Signature*]

[*If an agent, insert "Agent of Owner"*]

#### THE SCHEDULE

Title (if any) of work—

Description of work—

Full name of author or authors—

Whether author or authors alive—

If the author, or any one or more of the authors, is dead, date or dates of death—

Date and place of first publication of work—

**Schedule 11AA Record of the copying of a  
broadcast in reliance on  
Part VA of the *Copyright Act*  
1968**

(regulation 23G)

1. The name of the institution for which the broadcast was copied: .....
2. The day on which the copying was carried out: .....
3. The title, or other identification, of the program or programs included in the broadcast: .....
4. The name or call sign of the broadcasting station that made the broadcast: .....
5. The day on which the broadcast commenced: .....
6. The time when the broadcast commenced: .....
7. The number of copies made of the broadcast: .....



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## Schedule 11AB

(regulation 23G)

### *Copyright Act 1968*

#### RECORD OF THE COMMUNICATION OF A COPY OF A BROADCAST IN RELIANCE ON PART VA OF THE COPYRIGHT ACT 1968

1. The name of the institution for which the communication of a copy of a broadcast was made .....
2. The day on which the communication was first made .....
3. The title, or other identification, of the program or programs included in the copy communicated .....
4. The name or call sign of the broadcasting station that made the broadcast .....
5. The day on which the broadcast commenced .....
6. The time when the broadcast commenced .....
7. The number of times the copy of the broadcast was communicated .....

## **Schedule 11AC**

(regulation 23HB)

### **FORM OF NOTICE FOR PARAGRAPH 135KA (a) OF THE COPYRIGHT ACT 1968**

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

#### **WARNING**

This material has been copied and communicated to you by or on behalf of [*insert name of institution*] pursuant to Part VA of the *Copyright Act 1968 (the Act)*.

The material in this communication may be subject to copyright under the Act. Any further copying or communication of this material by you may be the subject of copyright or performers' protection under the Act.

Do not remove this notice.

## Schedule 11A

(regulation 23JL)

### *Copyright Act 1968*

#### RECORD OF THE MAKING OF A LICENSED COPY IN RELIANCE ON PART VB OF THE COPYRIGHT ACT 1968

1. The name of the institution for which the licensed copy was made: .....
2. The section of the *Copyright Act 1968* in reliance on which the copy was made: .....
3. The day on which the copy was made: .....
4. The full name or the surname and initials of the author/\*s of the article or other work<sup>(1)</sup>: .....
5. \*The name of the periodical publication in which the article appeared/\*The title or other identification of the work/\*The title or other identification of the sound recording or cinematograph film: .....
6. \*The International Standard Serial Number of the periodical publication in which the article appeared/\*The International Standard Book Number of the edition containing the work<sup>(1)</sup>: .....
7. The name of the publisher of \*the issue of the periodical publication in which the article appeared/\*the edition containing the work<sup>(1)</sup>: .....
8. \*The volume and number or the date of publication or other identification of the issue of the periodical publication in which the article appeared/ \*The year of publication of the edition containing the work<sup>(1)</sup>: .....
9. The number of pages copied<sup>(1)</sup>: .....
10. The number of copies made of \*each page/\*the sound recording/\*the cinematograph film/copied: .....

11. The form in which the copy was made<sup>(2)</sup>: .....

*\*Omit if not applicable.*

<sup>(1)</sup> Questions 4, 6, 7, 8 and 9 should not be answered where the item copied is a sound recording or cinematograph film.

<sup>(2)</sup> Specify the form of the copy: for example, a Braille, large-print or photographic version, a sound recording or a cinematograph film. Question 11 should not be completed where the form of the copy is a facsimile reproduction.

## **Schedule 11B**

(regulation 23JLA)

### **FORM OF NOTICE FOR PARAGRAPH 135ZXA (a) OF THE COPYRIGHT ACT 1968**

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

#### **WARNING**

This material has been reproduced and communicated to you by or on behalf of [*insert name of institution*] pursuant to Part VB of the *Copyright Act 1968* (***the Act***).

The material in this communication may be subject to copyright under the Act. Any further reproduction or communication of this material by you may be the subject of copyright protection under the Act.

Do not remove this notice.

## Schedule 11C Form of infringement notice

(regulation 23Q)

COMMONWEALTH OF AUSTRALIA

*Copyright Regulations 1969*

INFRINGEMENT NOTICE

Date of issue:

Unique identification code:

TO [*name and address of recipient*]:

1. I, [*name of authorised officer giving the infringement notice*], give this infringement notice under regulation 23P of the *Copyright Regulations 1969*.
2. I have reasonable grounds to believe that you have committed the following offence:

*[Details of alleged offence, including the provision of the Act that creates the offence, the nature of the offence, the time and date of the alleged offence, and the place of the alleged offence.]*

### **Penalty under this notice**

3. The penalty for the alleged offence under this notice is 12 penalty units for an individual or 60 penalty units for a body corporate. This penalty can be paid by [*methods of payment*].
- \*4. If you pay the penalty stated in this notice within the time for payment mentioned below then (unless this notice is subsequently withdrawn and any penalty paid refunded):
- \*4. If you have agreed to forfeit, and have forfeited, to the Commonwealth all infringing articles and devices in your possession in relation to the alleged offence at the time and place that this notice is issued, and you pay the penalty stated in this notice within the time for payment mentioned below, then (unless this notice is subsequently withdrawn and any penalty paid refunded):
  - (a) any liability you have for the commission of the alleged offence will be discharged; and

- 
- (b) you will not be prosecuted for the alleged offence; and
  - (c) you will not be taken to have admitted guilt in respect of the alleged offence; and
  - (d) you will not be taken to have been convicted of the alleged offence.

\* *Omit if not applicable*

#### **Consequences of failure to pay penalty under this notice**

- 5. If you do not pay the penalty specified in this notice within the time for payment mentioned below, you may be prosecuted for the alleged offence.
- 6. The maximum penalty that a court may impose for this offence is 60 penalty units for an individual and 300 penalty units for a body corporate.

#### **Time for payment**

- 7. The time for payment is:
  - (a) within 28 days after the date of this notice; or
  - (b) if you apply for a further period of time in which to pay the penalty, and the application is granted — within the further period allowed; or
  - (c) if you apply for a further period of time in which to pay the penalty, and the application is refused — within 7 days after the date you receive the notice of refusal; or
  - (d) if you apply for permission to pay the penalty by instalments, and that permission is granted — in accordance with the permission; or
  - (e) if you apply for permission to pay the penalty by instalments, and that permission is refused — within 7 days after the date you receive the notice of refusal; or
  - (f) if you apply for the notice to be withdrawn, and the application is refused — within 28 days after the date you receive the notice of refusal.

#### **Further penalty for continuing offence**

- 8. If the commission of the alleged offence continues beyond [*date of alleged offence*], a further penalty may be imposed even if the penalty imposed by this notice is paid.

**Contacting the [relevant police force]**

9. The [name of the police force] may be contacted by: [methods of contact].

**Applying to have this notice withdrawn**

10. Within 28 days after you receive this notice, you may apply to [name and/or position title] (the **nominated person**) to have this notice withdrawn.

**Applying for more time to pay the penalty under this notice**

11. Within 28 days after you receive this notice, you may apply to the nominated person for a further period of up to 28 days in which to pay the penalty under this notice.

**Applying to pay the penalty under this notice by instalments**

12. Within 28 days after you receive this notice, you may apply to the nominated person for permission to pay the penalty under this notice by instalments.

**Requirements for applications**

13. An application to have this notice withdrawn, or for more time to pay the penalty under this notice, or for permission to pay the penalty under this notice by instalments:
- (a) must be in writing; and
  - (b) must include the unique identification code set out at the top of this notice; and
  - (c) must include your reasons for making the application; and
  - (d) for an application for permission to pay the penalty under this notice by instalments — include the proposed amount and frequency of instalments; and
  - (e) may be made by [methods of making application].

Signature of authorised officer issuing the notice:



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## Schedule 12

(regulation 26)

### INTERNATIONAL ORGANIZATIONS TO WHICH THE COPYRIGHT ACT 1968 APPLIES

#### United Nations

- Food and Agriculture Organization of the United Nations
- Inter-Governmental Maritime Consultative Organization
- International Bank for Reconstruction and Development
- International Civil Aviation Organization
- International Court of Justice
- International Development Association
- International Finance Corporation
- International Labour Organisation
- International Monetary Fund
- International Telecommunication Union
- United Nations Educational, Scientific and Cultural Organization
- Universal Postal Union
- World Health Organization
- World Meteorological Organization

#### Asian Development Bank

- Cultural and Social Centre for the Asian and Pacific Region
- Customs Co-operation Council
- European Launcher Development Organization
- Intergovernmental Committee on European Migration
- International Atomic Energy Agency
- International Coffee Council
- International Criminal Police Organization
- International Hydrographic Bureau
- International Institute of Refrigeration
- International Organization of Legal Metrology
- International Sugar Council
- International Tin Council
- International Wheat Council
- Organization of American States
- South East Asia Treaty Organization
- South Pacific Commission

**Table of Instruments**

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**Notes to the *Copyright Regulations 1969*****Note 1**

The *Copyright Regulations 1969* (in force under the *Copyright Act 1968*) as shown in this compilation comprise Statutory Rules 1969 No. 58 amended as indicated in the Tables below.

Under the implementation of the *Legislative Instruments Act 2003*, which came into force on 1 January 2005, it is a requirement for all legislative instruments to be registered to the Federal Register of Legislative Instruments. Any legislative instrument made on or after 1 January 2005 is not enforceable unless it is registered. From 1 January 2005 the Statutory Rules series ceased to exist and is replaced with Select Legislative Instruments (SLI). Numbering conventions remain the same, ie Year and Number.

**Table of Instruments**

<b>Year and number</b>	<b>Date of notification in <i>Gazette</i> or FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
1969 No. 58 (a)	28 Apr 1969	1 May 1969 (see r. 2 and <i>Gazette</i> 1969, p. 2543)	
1981 No. 148	23 June 1981	23 June 1981	—
1981 No. 355	18 Dec 1981	18 Dec 1981	—
1982 No. 65	12 Mar 1982	12 Mar 1982	—
1983 No. 126	5 Aug 1983	5 Aug 1983	—
1983 No. 128	5 Aug 1983	5 Aug 1983	—
1983 No. 293	1 Dec 1983	1 Dec 1983	—
1984 No. 175	1 Aug 1984	1 Aug 1984	—
1984 No. 275	5 Oct 1984	5 Oct 1984	—
1987 No. 34	12 Mar 1987	12 Mar 1987	—
1988 No. 125	24 June 1988	24 June 1988	—
1990 No. 4	25 Jan 1990	25 Jan 1990	—
1990 No. 5	25 Jan 1990	25 Jan 1990	—
1990 No. 76	23 Mar 1990	23 Mar 1990	—
1990 No. 301	28 Sept 1990	1 Oct 1990 (see r. 1 and <i>Gazette</i> 1990, No. S261)	—
1992 No. 165	25 June 1992	25 June 1992	—
1993 No. 228	26 Aug 1993	26 Aug 1993	—
1995 No. 129	15 June 1995	1 July 1995	—

**Table of Instruments**

<b>Year and number</b>	<b>Date of notification in <i>Gazette</i> or FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
1998 No. 359	22 Dec 1998	22 Dec 1998	—
2001 No. 7	13 Feb 2001	13 Feb 2001	—
2001 No. 8	13 Feb 2001	(b)	—
2004 No. 405	23 Dec 2004	1 Jan 2005 (see r. 2)	—
2005 No. 15	25 Feb 2005 (see F2005L00311)	26 Feb 2005	—
2006 No. 328	14 Dec 2006 (see F2006L04029)	1 Jan 2007	—

(a) The form of introductory words used to make Statutory Rules 1969 No. 58 was as follows:

“WHEREAS it is provided by subsection (5) of section 55 of the *Copyright Act 1968* that regulations made for the purposes of paragraph (d) of subsection (1) of that section may provide that the doing of such acts as are specified in the regulations, being such acts as the Governor-General considers convenient for ensuring the receipt by the owner of the copyright in musical work of the royalties in respect of records of that work or, if the owner of the copyright cannot be found by reasonable inquiry, as the Governor-General considers reasonable in the circumstances, is to be deemed to constitute payment of the royalties:

“AND WHEREAS I consider that the doing of the acts referred to in regulation 9, and subregulation (3) of regulation 13, of the following Regulations is convenient for ensuring the receipt by the owner of the copyright in a musical work of the royalties in respect of records of that work:

“AND WHEREAS I consider that, where the owner of the copyright in a musical work cannot be found by reasonable inquiry, the doing of the acts referred to in regulation 12 of the following Regulations is reasonable in the circumstances:

“AND WHEREAS it is provided by subsection (1) of section 186 of the *Copyright Act 1968* that, where it appears to the Governor-General that it is desirable that that Act should apply in relation to an organization:

- (a) of which two or more countries, or the Governments of two or more countries, are members; or
- (b) that is constituted by persons representing two or more countries, or representing the Governments of two or more countries;  
the regulations under that Act may declare that organization to be an international organization to which that Act applies:

“AND WHEREAS each of the organizations specified in the Fifth Schedule to the following Regulations is an organization:

- (a) of which two or more countries, or the Governments of two or more countries, are members; or
- (b) that is constituted by persons representing two or more countries, or representing the Governments of two or more countries:

“AND WHEREAS it appears to me that it is desirable that the *Copyright Act 1968* should apply in relation to each of those organizations:

## **Table of Instruments**

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“NOW THEREFORE I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Copyright Act 1968*.”

(b) Regulation 2 of Statutory Rules 2001 No. 8 provides as follows:

These Regulations commence on the commencement of the *Copyright Amendment (Digital Agenda) Act 2000*.

The *Copyright Amendment (Digital Agenda) Act 2000* commenced on 4 March 2001.

**Table of Amendments****Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
Heading to Part 1.....	ad. 1990 No. 5
R. 1.....	rs. 1998 No. 359
R. 3A.....	ad. 1983 No. 128 rep. 1990 No. 76
R. 4.....	rs. 1981 No. 148 am. 1981 No. 355 rep. 1990 No. 4
R. 4A.....	ad. 1981 No. 148 am. 1981 No. 355 rep. 1990 No. 4
<b>Part 2</b>	
Heading to Part 2.....	ad. 1990 No. 5
R. 4B.....	ad. 1981 No. 148
R. 4BA.....	ad. 2001 No. 8
Heading to r. 4C.....	rs. 1998 No. 359
R. 4C.....	ad. 1987 No. 34
R. 4D.....	ad. 2001 No. 8
R. 5A.....	ad. 1981 No. 148 am. 1984 No. 175 rep. 1990 No. 76
R. 6.....	am. 1981 Nos. 148 and 355; 1983 No. 126; 1992 No. 165
R. 8.....	rs. 1992 No. 165
Rr. 9–13.....	am. 1992 No. 165
R. 15A.....	ad. 1983 No. 293 rep. 1992 No. 165
R. 17.....	rs. 1990 No. 301
<b>Part 3</b>	
Heading to Part 3.....	ad. 1990 No. 5
R. 17A.....	ad. 1988 No. 125 rs. 2001 No. 8
R. 17B.....	ad. 1993 No. 228 rep. 2001 No. 8
R. 20.....	rep. 1981 No. 148 ad. 2001 No. 8

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Part 3A</b>	
Part 3A.....	ad. 2004 No. 405
<b>Division 3A.1</b>	
R. 20A.....	ad. 2004 No. 405
R. 20B.....	ad. 2004 No. 405
R. 20C.....	ad. 2004 No. 405
R. 20D.....	ad. 2004 No. 405
<b>Division 3A.2</b>	
R. 20E.....	ad. 2004 No. 405
<b>Division 3A.3</b>	
R. 20F.....	ad. 2004 No. 405
<b>Division 3A.4</b>	
R. 20G.....	ad. 2004 No. 405
R. 20H.....	ad. 2004 No. 405
R. 20I.....	ad. 2004 No. 405
R. 20J.....	ad. 2004 No. 405
R. 20K.....	ad. 2004 No. 405
R. 20L.....	ad. 2004 No. 405
R. 20M.....	ad. 2004 No. 405
<b>Division 3A.5</b>	
R. 20N.....	ad. 2004 No. 405
R. 20P.....	ad. 2004 No. 405
R. 20Q.....	ad. 2004 No. 405
R. 20R.....	ad. 2004 No. 405
<b>Division 3A.6</b>	
R. 20S.....	ad. 2004 No. 405
R. 20T.....	ad. 2004 No. 405
R. 20U.....	ad. 2004 No. 405
<b>Division 3A.7</b>	
R. 20V.....	ad. 2004 No. 405
R. 20W.....	ad. 2004 No. 405
R. 20X.....	ad. 2004 No. 405
<b>Part 3B</b>	
Part 3B.....	ad. 2006 No. 328
R. 20Y.....	ad. 2006 No. 328
R. 20Z.....	ad. 2006 No. 328
<b>Part 4</b>	
Heading to Part 4.....	ad. 1990 No. 5

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 21 .....	am. 1981 Nos. 148 and 355; 1995 No. 129 rs. 1998 No. 359
R. 22 .....	am. 1981 No. 148 rep. 1981 No. 355 ad. 1995 No. 129 rs. 1998 No. 359
R. 22A.....	ad. 1995 No. 129
R. 23 .....	am. 1981 Nos. 148 and 355
<b>Part 5</b>	
Heading to Part 5.....	rs. 2001 No. 8
Part 5 .....	ad. 1990 No. 5
R. 23A.....	ad. 1990 No. 5 rs. 1998 No. 359 am. 2001 No. 8; 2005 No. 15
R. 23B.....	ad. 1990 No. 5 am. 1998 No. 359; 2001 No. 8
R. 23C.....	ad. 1990 No. 5 am. 1998 No. 359 rs. 2001 No. 8
R. 23D.....	ad. 1990 No. 5
R. 23E .....	ad. 1990 No. 5 am. 1998 No. 359 rs. 2001 No. 8
R. 23F .....	ad. 1990 No. 5 am. 1998 No. 359; 2001 No. 8
R. 23G .....	ad. 1990 No. 5 rs. 2001 No. 8
R. 23H.....	ad. 1990 No. 5
R. 23HA .....	ad. 2001 No. 8
R. 23HB .....	ad. 2001 No. 8
R. 23J .....	ad. 1990 No. 5 am. 2005 No. 15
<b>Part 5A</b>	
Heading to Part 5A.....	rs. 2001 No. 8
Part 5A.....	ad. 1990 No. 76
R. 23JA .....	ad. 1990 No. 76 am. 2001 No. 8; 2006 No. 328
Rr. 23JB.....	ad. 1990 No. 76 rs. 2006 No. 328
R. 23JC.....	ad. 1990 No. 76 am. 2001 No. 8; 2006 No. 328
R. 23JD.....	ad. 1990 No. 76 rs. 2006 No. 328

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 23JE .....	ad. 1990 No. 76 am. 2001 No. 8; 2006 No. 328
R. 23JF .....	ad. 1990 No. 76 am. 2001 No. 8; 2006 No. 328
R. 23JG .....	ad. 1990 No. 76 am. 2001 No. 8; 2006 No. 328
R. 23JH.....	ad. 1990 No. 76 am. 2006 No. 328
R. 23JJ.....	ad. 1990 No. 76 am. 2001 No. 8
R. 23JK .....	ad. 1990 No. 76 am. 2001 No. 8; 2006 No. 328
R. 23JL .....	ad. 1990 No. 76 am. 2006 No. 328
R. 23JLA .....	ad. 2001 No. 8
R. 23JM .....	ad. 1990 No. 76 am. 2006 No. 328
<b>Part 6</b>	
Part 6 .....	ad. 1990 No. 5 rep. 1998 No. 359 ad. 2001 No. 8
R. 23K.....	ad. 1990 No. 5 rep. 1998 No. 359 ad. 2001 No. 8
R. 23L .....	ad. 1990 No. 5 rep. 1998 No. 359 ad. 2001 No. 8
R. 23M .....	ad. 1990 No. 5 rep. 1998 No. 359
R. 23N.....	ad. 1990 No. 5 rep. 1998 No. 359
R. 23O .....	ad. 1990 No. 5 rep. 1998 No. 359
R. 23P.....	ad. 1990 No. 5 rep. 1998 No. 359
<b>Part 6A</b>	
<b>Division 6A.1</b>	
R. 23M .....	ad. 2006 No. 328
R. 23N.....	ad. 2006 No. 328
<b>Division 6A.2</b>	
R. 23O .....	ad. 2006 No. 328



**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Division 6A.3</b>	
<b>Subdivision 6A.3.1</b>	
R. 23P.....	ad. 2006 No. 328
R. 24Q.....	ad. 2006 No. 328
<b>Subdivision 6A.3.2</b>	
R. 24R.....	ad. 2006 No. 328
R. 23S.....	ad. 2006 No. 328
R. 23T.....	ad. 2006 No. 328
R. 23U.....	ad. 2006 No. 328
R. 23V.....	ad. 2006 No. 328
<b>Subdivision 6A.3.3</b>	
R. 23W.....	ad. 2006 No. 328
R. 23X.....	ad. 2006 No. 328
R. 23Y.....	ad. 2006 No. 328
R. 23Z.....	ad. 2006 No. 328
<b>Part 7</b>	
Heading to Part 7.....	ad. 1990 No. 5
R. 25.....	am. 1983 No. 126
R. 25AA.....	ad. 1987 No. 34 rep. 1990 No. 76 ad. 2001 No. 7
R. 25A.....	ad. 1981 No. 148 am. 1984 No. 175; 1990 No. 76
R. 25B.....	ad. 1981 No. 148 rep. 1990 No. 76 ad. 2001 No. 8
R. 26.....	am. 1981 Nos. 148 and 355
R. 27.....	am. 2001 No. 7; 2006 No. 328
Heading to The Schedules..	rep. 1981 No. 148
Schedule 1.....	ad. 1981 No. 148 rs. 1981 No. 355 am. 1983 No. 128; 1984 No. 275 rep. 1990 No. 4
Schedule 1A.....	ad. 1981 No. 355 rep. 1990 No. 4
Schedule 2.....	ad. 1981 No. 148 rs. 1981 No. 355 am. 1982 No. 65; 1983 No. 128; 1984 No. 275 rep. 1990 No. 4
<b>Schedule 3</b>	
Schedule 3.....	ad. 1981 No. 148 rs. 2001 No. 8

**Table of Amendments**

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<b>Provision affected</b>	<b>How affected</b>
<b>Schedule 3A</b>	
Heading to Schedule 3A .....	rs. 1998 No. 359
Schedule 3A .....	ad. 1987 No. 34
<b>Schedule 3B</b>	
Heading to Schedule 3B .....	rs. 1998 No. 359
Schedule 3B .....	ad. 1987 No. 34
<b>Schedule 4</b>	
Schedule 4 .....	ad. 1981 No. 148 rep. 1990 No. 76 ad. 2001 No. 8
Schedules 5–7 .....	ad. 1981 No. 148 rep. 1990 No. 76
<b>Schedule 8</b>	
Heading to First Schedule Renumbered Schedule 8.	1981 No. 148
Schedule 8 .....	rs. 1983 No. 126 rs. 1992 No. 165
<b>Schedule 9</b>	
Heading to Second Schedule Renumbered Schedule 9.	1981 No. 148
Schedule 9 .....	rep. 1995 No. 129 ad. 2001 No. 8
<b>Schedule 10</b>	
Heading to Third Schedule Renumbered Schedule 10	1981 No. 148
Schedule 10 .....	rep. 1981 No. 355 ad. 2004 No. 405
<b>Schedule 10A</b>	
Schedule 10A .....	ad. 2006 No. 328
<b>Schedule 11</b>	
Heading to Fourth Schedule Renumbered Schedule 11	1981 No. 148
Schedule 11 .....	am. 2001 No. 8
<b>Schedule 11AA</b>	
Heading to Schedule 11AA.	rs. 1998 No. 359 am. 2001 No. 8
Schedule 11AA .....	ad. 1990 No. 5 am. 1998 No. 359; 2001 No. 8
<b>Schedule 11AB</b>	
Schedule 11AB .....	ad. 2001 No. 8

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Schedule 11AC</b>	
Schedule 11AC .....	ad. 2001 No. 8 am. 2005 No. 15
<b>Schedule 11A</b>	
Schedule 11A .....	ad. 1990 No. 34 rs. 1990 No. 76
<b>Schedule 11B</b>	
Schedule 11B .....	ad. 1987 No. 34 rep. 1990 No. 76 ad. 2001 No. 8
<b>Schedule 11C</b>	
Schedule 11C .....	ad. 2006 No. 328
Schedule 11C .....	ad. 1987 No. 34 rep. 1990 No. 76
<b>Schedule 12</b>	
Heading to Fifth Schedule Renumbered Schedule 12	1981 No. 148