

# STATUTORY RULES

1969 No. 4

58

## REGULATIONS UNDER THE COPYRIGHT ACT 1968.\*

**W**HEREAS it is provided by sub-section (5.) of section 55 of the *Copyright Act* 1968 that regulations made for the purposes of paragraph (d) of sub-section (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 a 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 sub-regulation (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 sub-section (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:

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.

Dated this *twenty-fourth*

day of *April*, 1969.

**CASEY**

Governor-General.

By His Excellency's Command,

Sgd. NIGEL BOWEN

Attorney-General.

## COPYRIGHT REGULATIONS

1. These Regulations may be cited as the Copyright Regulations. Citation.
2. These Regulations shall come into operation on the date fixed by Proclamation under section 2 of the Act. Commencement.
- 3.—(1.) In these Regulations, unless the contrary intention appears— Interpretation.
- “ 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
- (b) has, in that section, a defined or other specified meaning,
- has the same meaning in that regulation.
4. Sub-section (1.) of section 50 of the Act does not apply in relation to the making, by or on behalf of the librarian of a library, of a copy of an article or other work, or of part of an article or other work, that is supplied to the librarian of another library— Copying by libraries for other libraries.
- (a) where the other library is established or conducted for profit; or
- (b) if a copy of the article or other work, or of that part of the article or other work, as the case may be, has previously been supplied by the librarian of the first-mentioned library to the librarian of the other library—unless the librarian of the first-mentioned library is satisfied that the copy so previously supplied has been lost, destroyed or damaged.
5. For the purposes of paragraph (b) of sub-section (1.), and paragraph (b) of sub-section (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— Notice of intended publication of unpublished work kept in public library.
- (a) stating the name, and the address of the place of residence or business, of the person intending to publish the new 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.—(1.) For the purposes of sub-paragraphs (iii) and (iv) of paragraph (a) of sub-section (1.) of section 55, and sub-paragraphs (iii) and (iv) of paragraph (d) of sub-section (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 the First Schedule to these Regulations.

Countries in relation to which Division 6 of Part III. applies.

- (2.) For the purposes of the last preceding sub-regulation—
  - (a) the overseas Departments and Territories of the French Republic shall be deemed to form part of the territory of that Republic;
  - (b) Land Berlin shall be deemed to form part of the territory of the Federal Republic of Germany;
  - (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 the Portuguese Republic shall be deemed to form part of the territory of that Republic;
  - (e) the Channel Islands, the Isle of Man, the British Solomon Islands Protectorate 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, the Panama Canal Zone 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.—(1.) For the purposes of paragraph (b) of sub-section (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.

Notice of intended making of record of musical work.

(2.) Subject to the next two succeeding sub-regulations, 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 sub-regulation, 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.

(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 sub-regulation (6.) of this regulation and the owner

or his agent makes an application in accordance with sub-regulation (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 sub-regulation (2.) or sub-regulation (3.) of this regulation, the notice shall, and, where the notice is given in accordance with sub-regulation (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 sub-section (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;
- (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 sub-regulation (4.) of this regulation and the notice published in the *Gazette* does not contain the information referred to in the last preceding sub-regulation, 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 sub-regulation 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 sub-regulation (6.) of this regulation was included in the notice, furnish that information to the owner or agent.

8. For the purposes of sub-paragraph (ii) of paragraph (d) of sub-section (1.) of section 55 of the Act, the royalty payable to the owner of the copyright in a musical work in respect of a record of that work shall be paid in such manner and at such time as is agreed between the owner of the copyright and the manufacturer of the record or, in the absence of agreement, shall be paid in accordance with regulations 9 to 14, inclusive, of these Regulations.

Payment of royalty by manufacturer of records of musical works.

9.—(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

Payment of royalty by affixing adhesive labels.

that work in accordance with this regulation of an adhesive label or adhesive labels purchased from the owner of the copyright shall, for the purposes of paragraph (b) of sub-section (5.) of section 55 of the Act, be deemed to constitute payment, in respect of that record, of the royalty referred to in sub-paragraph (ii) of paragraph (d) of sub-section (1.) of that section.

(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.

10.—(1.) This regulation applies for the purposes of sub-paragraph (ii) of paragraph (d) of sub-section (1.) of section 55 of the Act in relation to the payment of a royalty by the manufacturer to the owner of the copyright in a musical work or musical works, other than an owner in relation to whom sub-regulation (1.) of regulation 13 of these Regulations applies at the time when the notice referred to in the next succeeding sub-regulation 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.

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

(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 sub-regulation (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 sub-regulation, the manufacturer shall—

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

(i) the title (if any) of the musical work or of each of the musical works and a description of the work or of each of the works that is sufficient to enable the work to be identified;

- (ii) whether, in the performance of the musical work or musical works, words consisting or forming part of a literary or dramatic work in which copyright subsists are sung, or are spoken incidentally to or in association with the music;
  - (iii) whether the record also includes any musical works in which copyright does not subsist and, if so, the number of those works;
  - (iv) whether the record also includes any musical works the copyright in which is owned by other persons and, if so, the number of those works;
  - (v) the selling price to the public of the record; and
  - (vi) the amount considered by the manufacturer to be the amount of the royalty payable to the owner in respect of the record; and
- (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 sub-regulations is the period commencing immediately after the date of service of the notice referred to in paragraph (a) of sub-regulation (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.—(1.) For the purposes of sub-paragraph (ii) of paragraph (d) of sub-section (1.) of section 55 of the Act, the royalty payable to the owner of the copyright in a musical work, other than an owner in relation to whom sub-regulation (1.) of regulation 13 of these Regulations applies, in respect of a record of that work may be paid as provided by this regulation.

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

(2.) For the purposes of this regulation—

- (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 sub-regulation 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 sub-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 sub-paragraph;
- (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 sub-regulation 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 that bears to 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 the same proportion as the number of whole months included in the first period that is an accounting period in relation to the owner and the manufacturer bears to 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 to the owner, and the manufacturer shall, subject to this regulation, maintain that amount on deposit with the owner.

(4.) Where the amount of the deposit to be made under the last preceding sub-regulation 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 sub-regulation, 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 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

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records in respect of which royalties have already been paid to the owner otherwise than in pursuance of this regulation) and specifying, in relation to each such record--

- (i) the title (if any) of the musical work or of each of the musical works and a description of the work or of each of the works that is sufficient to enable the work to be identified;
  - (ii) whether, in the performance of the musical work or musical works, words consisting or forming part of a literary or dramatic work in which copyright subsists are sung, or are spoken incidentally to or in association with the music;
  - (iii) whether the record also includes any musical works in which copyright does not subsist and, if so, the number of those works;
  - (iv) whether the record also includes any musical works the copyright in which is owned by other persons and, if so, the number of those works;
  - (v) the selling price to the public of the record; and
  - (vi) the amount considered by the manufacturer to be the amount of the royalty payable to the owner in respect of the record; and
- (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 that bears to 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 sub-regulation referred to as "the relevant period") immediately preceding that day the same proportion as 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 bears to 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 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 sub-regulation, 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 sub-regulation (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.

(12.) Where this regulation ceases to apply as between the manufacturer and the owner of the copyright by reason of the last preceding sub-regulation, 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 sub-regulation (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 sub-regulations prevents the manufacturer making a further deposit with the owner of the copyright in accordance with sub-regulation (3.) of this regulation if this regulation again applies as between those persons.

12.—(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 royalty referred to in sub-paragraph (ii) of paragraph (d) of subsection (1.) of section 55 of the Act shall, for the purposes of paragraph (b) of subsection (5.) of that section, be deemed to be constituted by the manufacturer—

Payment of royalty where owner of copyright cannot be found.

- (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;
  - (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 sub-regulation (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.

**13.—**(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.

Payment of royalties to certain overseas copyright owners.

(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 sub-regulation (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, payment shall, for the purposes of paragraph (b) of sub-section (5.) of section 35 of the Act, be deemed to be constituted by the manufacturer—

- (a) depositing an amount equal to the amount of the royalties forthwith after the refusal or failure in a 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.

(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.—**(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 sub-regulation (3.) of regulation 10, paragraph (a) of sub-regulation (6.)

Certification of statements.

of regulation 11, paragraph (c) of sub-regulation (1.) of regulation 12 or paragraph (a) of sub-regulation (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.

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

**15.** For the purpose of sub-section (3.) of section 55 of the Act, the prescribed period is one month.

Prescribed period in relation to making of records of musical works.

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

Inquiries in relation to previous records of musical works.

(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;
- (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 sub-regulations, 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 sub-regulation, 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 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.—(1.) For the purposes of section 77 of the Act, a design shall be deemed to be applied industrially if it is applied—

- (a) to more than fifty articles; or
- (b) to one or more articles (other than hand-made articles) manufactured in lengths or pieces.

Circumstances in which design is to be deemed to be applied industrially.

(2.) For the purposes of paragraph (a) of the last preceding sub-regulation, any two or more articles—

- (a) that are of the same general character;
- (b) that are intended for use together; and
- (c) to which the same design, or substantially the same design, is applied,

shall be deemed to constitute a single article.

(3.) For the purposes of this regulation, a design shall be deemed 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.

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

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

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

Prescribed period in relation to broadcasts of recordings not published in Australia.

20. Sub-section (1.) of section 112 of the Act does not apply in relation to the making of a reproduction of part of a published edition of a work or works by, or on behalf of, the librarian of a library that is established or conducted for profit.

Reproductions by libraries of editions of works.

**21.—**(1.) A notice to the Comptroller-General under sub-section (2.) of section 135 of the Act by the owner of the copyright in a work shall be in accordance with the form in the Second Schedule to these Regulations.

Restriction of importation into Australia of printed copies of works.

(2.) 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 sub-section (2.) of section 135 of the Act.

(3.) A person who has given a notice to the Comptroller-General in relation to a work under sub-section (2.) of section 135 of the Act shall, as and when required by the Comptroller-General, give to the Comptroller-General such information and evidence as the Comptroller-General 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.

(4.) The Comptroller-General may from time to time require a person who has given a notice in relation to a work under sub-section (2.) of section 135 of the Act to give to the Comptroller-General security (whether by way of deposit of money, of an instrument of guarantee or otherwise), as the Comptroller-General specifies, in respect of any liability or expense that may be incurred by the Comptroller-General as a result of the seizure of any copy of the work.

(5.) A person who has given a notice to the Comptroller-General in relation to a work under sub-section (2.) of section 135 of the Act is liable to indemnify the Comptroller-General against any liability or expense that may be incurred by the Comptroller-General 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 Comptroller-General in respect of that liability or expense is insufficient.

(6.) The Comptroller-General may refuse to seize copies imported into Australia of a work to which a notice under sub-section (2.) of section 135 of the Act relates if the person who gave the notice has failed to comply with any requirement by the Comptroller-General under this regulation or has failed to indemnify the Comptroller-General against a liability or expense as provided by the last preceding sub-regulation.

**22.—**(1.) In this regulation—

- (a) a reference to the Territory is a reference to the Territory of Papua and the Territory of New Guinea; 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.

Restriction of importation into Papua and New Guinea of printed copies of works.

(2.) The owner of the copyright in a published literary, dramatic or musical work may give notice in writing to the Comptroller of Customs of the Territory (in this regulation referred to as "the Comptroller") 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 sub-regulation 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.) A notice to the Comptroller under sub-regulation (2.) of this regulation by the owner of the copyright in a work shall be in accordance with the form in the Third Schedule to these Regulations.

(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 sub-regulation (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 sub-regulation (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—

(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 be seized as forfeited to the Administration of the Territory.

(8.) The Comptroller, or on appeal from him the Administrator of the Territory, may permit copies of a work that are liable to be or have been seized as forfeited under this regulation to be delivered to the owner or importer upon security being given to the satisfaction of the Comptroller that the copies will be forthwith exported from the Territory.

(9.) The provisions of the *Customs Ordinance* 1951 of the Territory as amended and in force from time to time apply to the seizure and forfeiture under this regulation of copies of a work to which this regulation applies as if the copies were prohibited imports for the purposes of that Ordinance.

(10.) A person who has given a notice to the Comptroller in relation to a work under sub-regulation (2.) of this regulation shall, as and when required by the Comptroller, give to the Comptroller such information and evidence as the Comptroller 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.

(11.) The Comptroller may from time to time require a person who has given a notice in relation to a work under sub-regulation (2.) of this regulation to give to the Comptroller security (whether by way of deposit of money, of an instrument of guarantee or otherwise), as the Comptroller specifies, in respect of any liability or expense that may be incurred by the Comptroller as a result of the seizure of any copy of the work.

(12.) A person who has given a notice to the Comptroller in relation to a work under sub-regulation (2.) of this regulation is liable to indemnify the Comptroller against any liability or expense that may be incurred by the Comptroller 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 Comptroller in respect of that liability or expense is insufficient.

(13.) The Comptroller may refuse to seize copies imported into the Territory of a work to which a notice under sub-regulation (2.) of this regulation relates if the person who gave the notice has failed to comply with any requirement by the Comptroller under this regulation or has failed to indemnify the Comptroller against a liability or expense as provided by the last preceding sub-regulation.

23.—(1.) In this regulation—

- (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.

Restriction of importation into Norfolk Island of printed copies of works.

(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 sub-regulation 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.) A notice to the Collector under sub-regulation (2.) of this regulation by the owner of the copyright in a work shall be in accordance with the form in the Fourth Schedule to these Regulations.

(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 sub-regulation (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 sub-regulation (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—
  - (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 sub-regulation (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 sub-regulation (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 sub-regulation (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.

(12.) Where a person who gave a notice under sub-regulation (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 sub-regulation, 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.

**24. Where an order of the Copyright Tribunal is suspended—**

- (a) paragraph (a) of sub-section (6.) of section 154, and sub-sections (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 sub-section (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.

Effect of suspension of orders of Copyright Tribunal.

**25.—(1.)** For the purposes of sub-section (4.) of section 133 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.

Notification of use of copyright material for services of Crown.

(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, the notice shall be given by service of the notice on the owner.

(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; and
- (b) knows an address outside Australia of a place of residence or business of the owner but does not know an address for service in Australia of the owner,

the notice shall be given by the serving of the notice by post on the owner 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 knows the name but does not know any address of a place of residence or business, of the owner of the copyright, the notice shall be given by being published in the *Commonwealth of Australia Gazette* or in the *Government Gazette* of the State, as the case may be.

(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 the title, if any, of the work or other subject-matter and, if that title is not sufficient to enable the work or other subject-matter to be identified, contain a description of the work or other subject-matter that is sufficient to enable it to be identified;



- (c) specify the act to which the notice relates;
- (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 sub-section (4.) of section 183 of the Act of the doing of the act.

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

International organizations to which Copyright Act 1968 applies.

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

Service of documents in Australia.

- (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 sub-regulation in relation to a notice under paragraph (a) of sub-regulation (2.) of regulation 10 of these Regulations, a reference to post shall be read as a reference to registered post.

THE SCHEDULES

FIRST SCHEDULE

Regulation 6.

COUNTRIES IN RELATION TO WHICH DIVISION 6 OF PART III. OF THE COPYRIGHT ACT 1968  
APPLIES

Andorra	Republic of Liberia
Argentine Republic	Principality of Liechtenstein
Republic of Austria	Grand Duchy of Luxembourg
Kingdom of Belgium	Malagasy Republic
Federative Republic of Brazil	Republic of Malawi
People's Republic of Bulgaria	Republic of Mali
Kingdom of Cambodia	Malta
Federal Republic of Cameroon	United Mexican States
Canada	Principality of Monaco
Ceylon	Kingdom of Morocco
Republic of Chile	Kingdom of the Netherlands
Democratic Republic of the Congo	New Zealand
Republic of the Congo	Republic of Nicaragua
Republic of Costa Rica	Republic of the Niger
Republic of Cuba	Federal Republic of Nigeria
Republic of Cyprus	Kingdom of Norway
Czechoslovak Socialist Republic	Pakistan
Republic of Dahomey	Republic of Panama
Kingdom of Denmark	Republic of Paraguay
Republic of Ecuador	Republic of Peru
Republic of Finland	Republic of the Philippines
French Republic	Polish People's Republic
Gabonese Republic	Portuguese Republic
Federal Republic of Germany	Socialist Republic of Rumania
Republic of Ghana	Republic of Senegal
Kingdom of Greece	Republic of South Africa
Republic of Guatemala	Spanish State
Republic of Haiti	Kingdom of Sweden
Holy See	Swiss Confederation
Hungarian People's Republic	Kingdom of Thailand
Republic of Iceland	Republic of Tunisia
Republic of India	Republic of Turkey
Republic of Ireland	United Kingdom of Great Britain and Northern Ireland
State of Israel	United States of America
Italian Republic	Republic of the Upper Volta
Republic of the Ivory Coast	Eastern Republic of Uruguay
Japan	Republic of Venezuela
Republic of Kenya	Socialist Federal Republic of Yugoslavia
Kingdom of Laos	Republic of Zambia
Lebanese Republic	

SECOND SCHEDULE

Regulation 21.

COMMONWEALTH OF AUSTRALIA

Copyright Regulations

NOTICE FOR PURPOSES OF SECTION 135 OF THE COPYRIGHT ACT 1968

To the Comptroller-General of Customs.

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 Australia [here specify the period during which importation is objected to] of copies of the work [or works] to which section 135 of the Copyright Act 1968 applies.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

[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—

THIRD SCHEDULE

Regulation 22.

COMMONWEALTH OF AUSTRALIA

Copyright Regulations

NOTICE FOR PURPOSES OF REGULATION 22

To the Comptroller of Customs of the Territory of Papua and the Territory of New Guinea.

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 the Territory of Papua and the Territory of New Guinea [here specify the period during which importation is objected to] of copies of the work [or works] to which regulation 22 of the Copyright Regulations applies.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

[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—

Copyright Regulations

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FOURTH SCHEDULE

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 the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

[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—

FIFTH SCHEDULE

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 Organization  
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

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