



F.B.L.I.

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Copyright Tribunal (Procedure) Amendment Regulations 2001 (No. 1)¹

Statutory Rules 2001 No. ²

9

I, WILLIAM PATRICK DEANE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Copyright Act 1968*.

Dated 6 FEB 2001 2001

WILLIAM DEANE
Governor-General

By His Excellency's Command

DARYL WILLIAMS
Attorney-General

1 Name of Regulations

These Regulations are the *Copyright Tribunal (Procedure) Amendment Regulations 2001* (No. ~~/~~).

1

2 Commencement

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

3 Amendment of *Copyright Tribunal (Procedure) Regulations 1969*

Schedule 1 amends the *Copyright Tribunal (Procedure) Regulations 1969*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 9

omit

the First Schedule

insert

Schedule 1

[2] Subregulation 18 (4)

substitute

(4) This regulation does not apply to:

- (a) applications under subsection 47 (3), paragraph 59 (3) (b), subsections 70 (3) and 107 (3), and paragraph 108 (1) (a) of the Act; and

- (b) applications mentioned in sections 149A, 153A, 153B, 153BA, 153BB, 153C, 153D, 153DA, 153M and 153N of the Act; and
- (c) applications to which regulation 34 or 35 applies.

[3] Paragraph 23A (e)

omit

transmissions

insert

broadcasts

[4] Paragraph 23A (f)

substitute

- (f) ask the Tribunal to determine an amount that is equitable remuneration for:
 - (i) copies of broadcasts; and
 - (ii) communications of such copies.

[5] Paragraphs 23B (e) and (f)

substitute

- (e) give the following particulars based on assessment by use of a sampling system under subsection 135J (3) of the Act:
 - (i) the extent to which copies of broadcasts are made by, or on behalf of, the administering body in a particular period;
 - (ii) the extent to which communications of such copies are made by, or on behalf of, the administering body in a particular period;
 - (iii) other matters (if any); and

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- (f) ask the Tribunal to determine the annual amount per student of the institution concerned that is equitable remuneration for:
 - (i) copies of broadcasts; and
 - (ii) communications of such copies.

[6] Paragraphs 23C (e) and (f)

substitute

- (e) give the following particulars for assessment by use of a sampling system:
 - (i) the extent of copying of broadcasts;
 - (ii) the extent to which copies of broadcasts are communicated;
 - (iii) other matters (if any); and
- (f) ask the Tribunal to determine a sampling system to be used to assess:
 - (i) the extent to which copies of broadcasts are made by, or on behalf of, the administering body in a particular period; and
 - (ii) the extent to which communications of such copies are made by, or on behalf of, the administering body in a particular period; and
 - (iii) any other matters that are necessary or convenient to be assessed by use of a sampling system.

[7] After regulation 23C

insert

23CA Matters to be included in application under subsection 135JA (1) of the Act

An application to the Tribunal under subsection 135JA (1) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or the collecting society; and
- (c) if the applicant is an administering body:
 - (i) state the institutions it administers; and
 - (ii) state the classes of students of institutions it administers; and
- (d) if the applicant is the collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135P of the Act; and
 - (ii) state the name of the administering body; and
- (e) give the following particulars based on assessment by use of an agreed system under subsection 135JA (3) of the Act:
 - (i) the extent to which copies of broadcasts are made by, or on behalf of, the administering body in a particular period;
 - (ii) the extent to which communications of such copies are made by, or on behalf of, the administering body in a particular period;
 - (iii) other matters (if any); and

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- (f) ask the Tribunal to determine an amount (whether an annual amount or otherwise) that is equitable remuneration for:
- (i) copies of broadcasts; and
 - (ii) communications of such copies.

Note In this regulation, *administering body* and *collecting society* have the same meaning as in Part VA of the Act.

23CB Matters to be included in application under subsection 135JA (3) of the Act

An application to the Tribunal under subsection 135JA (3) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or the collecting society; and
- (c) if the applicant is an administering body — state the name of the collecting society; and
- (d) if the applicant is the collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135P of the Act; and
 - (ii) state the name of the administering body; and
- (e) give particulars of:
 - (i) the matters and processes that it is proposed should constitute an agreed system; and
 - (ii) any other matters that it is proposed should be necessary or convenient to be assessed or taken into account for the purposes of an agreed system; and
- (f) ask the Tribunal to determine:
 - (i) the agreed system to be used, including the matters and processes constituting the agreed system; and

(ii) any other matters that are necessary or convenient to be assessed or taken into account for the purposes of an agreed system that adequately accounts for:

(A) copies of broadcasts made by, or on behalf of, the administering body while the agreed notice is in force; and

(B) communications of such copies made by, or on behalf of, the administering body while the agreed notice is in force.

Note In this regulation, *administering body*, *agreed notice* and *collecting society* have the same meaning as in Part VA of the Act.

[8] After regulation 23F

insert

23G Matters to be included in application under subsection 135ZME (3) of the Act

An application to the Tribunal under subsection 135ZME (3) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) identify the artistic work to which the application relates; and
- (c) identify the article or other literary, dramatic or musical work (*the article or other work*) to which the application relates; and
- (d) state whether the applicant is the owner, or an owner, of copyright in:
 - (i) the artistic work; or
 - (ii) the article or other work; and

- (e) if applicable, state the names of other relevant copyright owners of:
 - (i) the artistic work; or
 - (ii) the article or other work; and
- (f) ask the Tribunal to determine the division of equitable remuneration to be apportioned between:
 - (i) the owner or owners of the copyright in the artistic work; and
 - (ii) the owner or owners of the copyright in the article or other work.

23H Matters to be included in application under subsection 135ZWA (1) of the Act

An application to the Tribunal under subsection 135ZWA (1) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or a collecting society; and
- (c) if the applicant is an administering body:
 - (i) state the name of the relevant collecting society; and
 - (ii) state the institutions administered by the administering body; and
 - (iii) state the classes of students of institutions it administers; and
- (d) if the applicant is a collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135ZZB of the Act including (if applicable) details of the classes of relevant copyright owners specified in the notice; and
 - (ii) state the name of the administering body; and

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- (e) give the following particulars based on assessment by use of an electronic use system:
 - (i) the extent to which licensed copies and licensed communications are made by, or on behalf of, the administering body in a particular period;
 - (ii) other matters (if any); and
 - (f) ask the Tribunal to determine an amount (whether an annual amount or otherwise) that is equitable remuneration for making licensed copies and licensed communications.

Note In this regulation, *administering body*, *collecting society* and *licensed copy* have the same meaning as in Part VB of the Act.

23J Matters to be included in application under subsection 135ZWA (2) of the Act

An application to the Tribunal under subsection 135ZWA (2) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or a collecting society; and
- (c) if the applicant is an administering body — state the name of the collecting society; and
- (d) if the applicant is a collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135ZZB of the Act including (if applicable) details of the classes of relevant copyright owners specified in the notice; and
 - (ii) state the name of the administering body; and
- (e) give particulars of:
 - (i) the matters and processes that are proposed should constitute an electronic use system; and

- (ii) any other matters that it is proposed should be necessary or convenient to be assessed and taken into account for the purposes of an electronic use system; and
- (f) ask the Tribunal to determine:
 - (i) the electronic use system to be used, including matters and processes constituting the system; and
 - (ii) any other matters that are necessary or convenient to be assessed or taken into account for the purposes of an electronic use system that adequately accounts for licensed copies and licensed communications made by, or on behalf of, the administering body while an electronic use notice is in force.

Note In this regulation, *administering body*, *collecting society* and *licensed copy* have the same meaning as in Part VB of the Act.

23K Matters to be included in application under subsection 135ZZM (1) of the Act

An application to the Tribunal under subsection 135ZZM (1) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is a retransmitter or a collecting society; and
- (c) if the applicant is a retransmitter — state the name of the collecting society; and
- (d) if the applicant is a collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under subsection 135ZZT (1) of the Act; and
 - (ii) state the name of the retransmitter; and
- (e) identify the retransmission or retransmissions to be the subject of the determination; and

- (f) identify the classes of works, sound recordings or cinematograph films which are the subject of the determination and which are included in the retransmission or retransmissions; and
- (g) ask the Tribunal to determine an amount that is equitable remuneration for the making of the retransmission or retransmissions while the remuneration notice is in force, in so far as that equitable remuneration relates to the identified classes of works, sound recordings or cinematograph films.

Note In this regulation, *collecting society*, *remuneration notice* and *retransmitter* have the same meanings as in Part VC of the Act.

23L. Matters to be included in application under subsection 135ZZN (3) of the Act

An application to the Tribunal under subsection 135ZZN (3) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is a retransmitter or a collecting society; and
- (c) if the applicant is a retransmitter — state the name of the collecting society; and
- (d) if the applicant is a collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under subsection 135ZZT (1) of the Act; and
 - (ii) state the name of the retransmitter; and
- (e) identify the retransmission or retransmissions to be the subject of the determination; and

- (f) ask the Tribunal to determine the record system that in accordance with subsection 135ZZN (2) of the Act is to be used for the purposes of a remuneration notice.

Note In this regulation, *collecting society*, *remuneration notice* and *retransmitter* have the same meanings as in Part VC of the Act.

[9] Subregulation 44 (1)

omit

the First Schedule

insert

Schedule 1

[10] Regulation 46

omit

the Second Schedule

insert

Schedule 2

[11] The Schedules, heading

omit

[12] First Schedule, heading

substitute

Schedule 1 Forms

(regulations 9 and 44)

[13] First Schedule, Form 2

substitute

Form 2 Summons to witness

(Title)

To: *[name and address of witness]*

You are summoned to attend before the Copyright Tribunal at *[name of place]* on *[day/month/year]*, at *am/*pm and on any other days as required until the hearing of proceedings in relation to the *application/*reference/*inquiry is completed or you are released from further attendance.

2. You are required to attend before the Tribunal to give evidence in the proceedings.

#3. You are required to bring with you and produce the following documents or articles or documents and articles:
[here set out the documents and articles required]

Dated .

President *[or Deputy President or Member
or the Secretary]* of the Copyright Tribunal


*omit, if applicable

#insert, if applicable

[14] **Second Schedule, heading**
substitute

Schedule 2 Fees
(regulation 46)

Notes

1. These Regulations amend Statutory Rules 1969 No. 59, as amended by 1974 No. 186; 1983 No. 125; 1987 No. 35; 1992 No. 166; 1998 No. 357.
2. Notified in the *Commonwealth of Australia Gazette* on  2001.

13 February

14 *Copyright Tribunal (Procedure) Amendment Regulations* 2001,
2001 (No.)