

# STATUTORY RULES

1969 No. 60

## REGULATIONS UNDER THE COPYRIGHT ACT 1968.\*

**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 (INTERNATIONAL PROTECTION) REGULATIONS

1. These Regulations may be cited as the Copyright (International Protection) 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.
  - “ at a material time ” means—
    - (a) in relation to, or in relation to the application of the Act in respect of, a work or other subject-matter that is unpublished—
      - (i) at the time when the work or other subject-matter was made; or
      - (ii) if the making of the work or other subject-matter extended over a period—over a substantial part of that period; and
    - (b) in relation to, or in relation to the application of the Act in respect of, a work or other subject-matter that has been published—at the time when the work or other subject-matter was first published;
  - “ simultaneously ” means—
    - (a) in relation to publications that took place before the date of commencement of these Regulations—within a period of fourteen days; and
    - (b) in any other case—within a period of thirty days;
  - “ the country of origin ” means—
    - (a) in relation to a published work or published cinematograph film the first publication of which took place in one country only, being a country that constitutes, or forms part of, the territory of a Country specified in Part I. or Part II. of the First Schedule to these Regulations—the country so constituting or forming part of that territory;

\* Notified in the *Commonwealth Gazette* on 1969.  
13930/69—PRICE 15c

- (b) in relation to a published work or published cinematograph film the first publications of which took place simultaneously in a country that constitutes, or forms part of, the territory of a Country specified in Part I. of the First Schedule to these Regulations and in a country that does not constitute, or form part of, the territory of a Country so specified--the former country;
- (c) in relation to a published work or published cinematograph film the first publications of which took place simultaneously in a country that constitutes, or forms part of, the territory of a Country specified in Part II. of the First Schedule to these Regulations and in a country that does not constitute, or form part of, the territory of a Country specified in Part I. or Part II. of that Schedule--the former country;
- (d) in relation to a published work or published cinematograph film the first publications of which took place simultaneously in two or more countries each of which constitutes, or forms part of, the territory of a Country specified in Part I. of the First Schedule to these Regulations--the country the law of which confers the shortest term of protection in the nature of copyright in relation to the work or film;
- (e) in relation to a published work or published cinematograph film the first publications of which took place simultaneously in two or more countries each of which constitutes, or forms part of, the territory of a Country specified in Part II. of the First Schedule to these Regulations--the country the law of which confers the shortest term of protection in the nature of copyright in relation to the work or film;
- (f) in relation to an unpublished work or in relation to a published work the first publication of which took place only in a country that constitutes, or forms part of, the territory of a Country not specified in Part I. or Part II. of the First Schedule to these Regulations--whichever of the following countries confers the longest term of protection in the nature of copyright in relation to the work or other subject-matter:--
  - (i) a country of which the author was a national or citizen at a material time;
  - (ii) a country in which the author was resident at a material time; and
- (g) in relation to an unpublished cinematograph film or in relation to a published cinematograph film the first publication of which took place only in a country that constitutes, or forms part of, the territory of a Country not specified in Part I. or Part II. of the First Schedule to these Regulations--whichever of the following countries confers the longest term of protection in the nature of copyright in relation to the film:--
  - (i) a country of which the maker was a national or citizen at a material time;
  - (ii) a country in which the maker was resident at a material time;
  - (iii) a country under the law of which the maker, being a body corporate, was incorporated at a material time;
  - (iv) a country in which the recording or film was made;

“ the Act ” means the *Copyright Act 1968*.

(2.) A reference in these Regulations to a subject-matter other than a work shall be read as a reference to a sound recording, a cinematograph film or a published edition of a work or works.

(3.) 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.) For the purposes of these Regulations, unless the contrary intention appears—

(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.

(5.) For the purposes of these Regulations, protection in the nature of copyright shall be deemed to be conferred in relation to a work or other subject-matter under the law of a country other than Australia if that law confers on the person entitled to the protection the exclusive right to do in that country in relation to the work or other subject-matter any one or more of the acts that are comprised in the copyright in the work or other subject-matter under the Act.

4.—(1.) Subject to these Regulations, the provisions of the Act apply in relation to literary, dramatic, musical and artistic works and editions first published, and sound recordings and cinematograph films made or first published, in a country that constitutes, or forms part of, the territory of a Country specified in Part I. or Part II. of the First Schedule to these Regulations in like manner as those provisions apply in relation to literary, dramatic, musical and artistic works and editions first published, and sound recordings and cinematograph films made or first published, in Australia.

Application of Act to Convention countries.

(2.) Subject to these Regulations, the provisions of the Act apply in relation to artistic works that—

(a) are buildings situated in a country that constitutes, or forms part of, the territory of a Country specified in Part I. or Part II. of the First Schedule to these Regulations; or

(b) are attached to, or form part of, buildings situated in that country, in like manner as those provisions apply in relation to artistic works that are buildings situated in Australia or are attached to, or form part of, buildings situated in Australia.

(3.) Subject to these Regulations, the provisions of the Act relating to works and other subject-matter apply in relation to persons who, at a material time, are citizens or nationals of a Country specified in Part I. or Part II. of the First

Schedule to these Regulations in like manner as those provisions apply in relation to persons who, at a material time, are Australian citizens.

(4.) Subject to these Regulations, the provisions of the Act relating to works and other subject-matter apply in relation to persons who, at a material time, are resident in a country that constitutes, or forms part of, the territory of a Country specified in Part I. or Part II. of the First Schedule to these Regulations in like manner as those provisions apply in relation to persons who, at a material time, are resident in Australia.

(5.) Subject to these Regulations, the provisions of the Act apply in relation to bodies incorporated under the law of a country that constitutes, or forms part of, the territory of a Country specified in Part I. or Part II. of the First Schedule to these Regulations in like manner as those provisions apply in relation to bodies incorporated under a law of the Commonwealth or of a State.

5. Copyright subsisting in a published work or a published cinematograph film by reason only of the operation of these Regulations ceases to subsist upon the expiration of the term of the protection in the nature of copyright that subsists in relation to such a work or film under the law of the country of origin of the work or film.

Term of copyright in overseas work or film not to exceed that under law of country of origin.

6.—(1.) Where—

- (a) copyright subsists in a published sound recording by virtue only of the operation of these Regulations;
- (b) any of the following sub-paragraphs is applicable:—
  - (i) the maker of the recording was, at the time when the recording was made, a citizen or national of a Country specified in Part I. or Part II. of the First Schedule to these Regulations;
  - (ii) the maker of the recording was, at that time, a person resident in, or a body corporate incorporated under the law of, a country that constitutes, or forms part of, the territory of a Country referred to in the last preceding sub-paragraph;
  - (iii) the recording was made in a country that constitutes, or forms part of, the territory of a Country so referred to; and
- (c) none of the following laws confers in respect of the recording a protection in the nature of copyright that gives to the person entitled to the protection the exclusive right to cause the recording to be heard in public:—
  - (i) the law of the Country of which the maker was such a citizen or national;
  - (ii) the law of the country in which the maker was so resident;
  - (iii) the law under which the maker was so incorporated; and
  - (iv) the law of the country in which the recording was so made,

Copyright in certain sound recordings not to include rights in respect of public performance.

this regulation applies in relation to that recording.

(2.) Where this regulation applies in relation to a sound recording and—

- (a) the recording has been published in Australia; or
- (b) a period of seven weeks has elapsed from the date of the first publication of the recording,

copyright in the recording does not include the exclusive right to cause the recording to be heard in public.

7.—(1.) Subject to this regulation, where—

- (a) copyright subsists in a published sound recording by virtue only of the operation of these Regulations;

Copyright in certain sound recordings not to include rights in respect of broadcasting.

- (b) any of the following sub-paragraphs is applicable:—
- (i) the maker of the recording was, at the time when the recording was made, a citizen or national of a Country specified in Part I. or Part II. of the First Schedule to these Regulations;
  - (ii) the maker of the recording was, at that time, a person resident in, or a body corporate incorporated under the law of, a country that constitutes, or forms part of, the territory of a Country referred to in the last preceding sub-paragraph;
  - (iii) the recording was made in a country that constitutes, or forms part of, the territory of a Country so referred to; and
- (c) none of the following laws confers in respect of the recording a protection in the nature of copyright that gives to the person entitled to the protection the exclusive right to broadcast the recording:—
- (i) the law of the Country of which the maker was such a citizen or national;
  - (ii) the law of the country in which the maker was so resident;
  - (iii) the law under which the maker was so incorporated; and
  - (iv) the law of the country in which the recording was so made,

this regulation applies in relation to that recording.

(2.) This regulation does not apply in relation to a sound recording that has not been published in Australia if—

- (a) the recording consists of, or includes, a musical work in which copyright subsists;
- (b) the musical work was made for the purpose of being performed, or has been performed, in association with a dramatic work or has been included in a cinematograph film; and
- (c) records of the musical work have not been supplied (whether by sale or otherwise) to the public in Australia.

(3.) For the purposes of paragraph (c) of the last preceding sub-regulation, a supplying of records of a musical work shall be disregarded if the supplying was done otherwise than by, or with the licence of, the owner of the copyright in the work.

(4.) Where this regulation applies in relation to a sound recording and—

- (a) the recording has been published in Australia; or
- (b) a period of seven weeks has elapsed from the date of the first publication of the recording,

copyright in the recording does not include the exclusive right to broadcast the recording.

8. Where copyright subsists in a published edition of a work or works by reason only of the operation of these Regulations, that copyright subsists only so long as protection in the nature of copyright subsists in relation to the edition under the law of any of the following countries:—

Copyright not to subsist in overseas editions in certain cases.

- (a) a country of which the publisher of the edition was a national or citizen at a material time, being a Country specified in Part I. or Part II. of the First Schedule to these Regulations;
- (b) a country—
  - (i) in which the edition was first published;
  - (ii) in which the publisher of the edition was resident at a material time; or
  - (iii) under the law of which the publisher of the edition, being a body corporate, was incorporated at a material time, being a country that constitutes, or forms part of, the territory of a Country specified in Part I. or Part II. of the First Schedule to these Regulations.

9.—(1.) Section 89 of the Act does not apply in relation to a sound recording that was made before the commencement of these Regulations if copyright subsists in the recording by reason only of any one or more of the following:—

Certain provisions of the Act not to apply in relation to certain existing overseas recordings or works.

- (a) the maker having been, at a material time, a national or citizen of a Country specified in Part II. of the First Schedule to these Regulations;
- (b) the maker having been, at a material time, a body corporate incorporated under the law of a country that constitutes, or forms part of, the territory of a Country so specified;
- (c) the maker having been, at a material time, resident in a country that constitutes, or forms part of, the territory of a Country so specified;
- (d) the first publication of the recording having taken place in a country that constitutes, or forms part of, the territory of a Country so specified.

(2.) Section 210 of the Act does not apply in relation to a work first published before the commencement of these Regulations where—

- (a) the first publication of the work took place in a country that constitutes, or forms part of, the territory of a Country specified in the Second Schedule to these Regulations;
- (b) the author was, at a material time, resident in a country that constitutes, or forms part of, the territory of a Country so specified; or
- (c) the author was, at a material time, a national or citizen of a Country so specified.

(3.) Division 5 of Part XI. of the Act does not apply in relation to a work made before the first day of July, 1912, where—

- (a) the first publication of the work took place in a country that constitutes, or forms part of, the territory of a Country specified in the Second Schedule to these Regulations;
- (b) the author was, at a material time, a national or citizen of a Country so specified; or
- (c) the author was, at a material time, resident in a country that constitutes, or forms part of, the territory of a Country so specified.

10.—(1.) In the application, by virtue of these Regulations, of section 63 of the Act in relation to a musical work of which the country of origin is a Country specified in the Second Schedule to these Regulations or a country that constitutes, or forms part of, the territory of a Country so specified, the references in sub-sections (1.) and (2.) of that section to the first day of July, 1912, shall be read as references to the date of commencement of the Act.

Modification of section 63 of the Act in relation to certain foreign musical works.

(2.) In the application, by virtue of these Regulations, of section 63 of the Act in relation to a musical work of which the country of origin is a Country specified in the first column of the Third Schedule to these Regulations or a country that constitutes, or forms part of, the territory of a Country so specified, the references in sub-sections (1.) and (2.) of that section to the first day of July, 1912, shall be read as references to the date set out in the second column of that Schedule opposite to the name of that country.

(3.) In this regulation, "country of origin" has the same meaning as in the International Convention for the Protection of Literary and Artistic Works concluded at Berne on the ninth day of September, 1886, and revised at Berlin on the thirteenth day of November, 1908, and at Rome on the second day of June, 1928.

11. Where a person has, at any time before the date of commencement of these Regulations, taken action whereby he has incurred expenditure or liability in connexion with the doing of any act in relation to a work or other subject-matter in a manner that at that time was lawful, or for the purpose of or with a

Modification of application of provisions of Act.

view to the doing of any act in relation to a work or other subject-matter at a time when the doing of that act would, but for the making of these Regulations, have been lawful, nothing in these Regulations diminishes or prejudices any right or interest arising from or in connexion with that action that is subsisting and valuable immediately before the date of commencement of these Regulations unless the person who by virtue of the operation of these Regulations has the exclusive right to do that act agrees to pay to the first-mentioned person such compensation as is reasonable in the circumstances.

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THE SCHEDULES

FIRST SCHEDULE

Regulations 3 and 4.

PART I.

Argentine Republic  
Republic of Austria  
Kingdom of Belgium  
Federative Republic of Brazil  
People's Republic of Bulgaria  
Federal Republic of Cameroon  
Canada  
Ceylon  
Democratic Republic of the Congo  
Republic of the Congo  
Republic of Cyprus  
Czechoslovak Socialist Republic  
Republic of Dahomey  
Kingdom of Denmark  
Republic of Finland  
French Republic  
Gabonese Republic  
Federal Republic of Germany  
Kingdom of Greece  
Holy See  
Hungarian People's Republic  
Republic of Iceland  
Republic of India  
Republic of Ireland  
State of Israel  
Italian Republic  
Republic of the Ivory Coast  
Japan  
Lebanese Republic  
Principality of Liechtenstein  
Grand Duchy of Luxembourg  
Malagasy Republic  
Republic of Mali  
Malta  
United Mexican States  
Principality of Monaco  
Kingdom of Morocco

FIRST SCHEDULE—*continued*

Kingdom of the Netherlands  
New Zealand  
Republic of the Niger  
Kingdom of Norway  
Pakistan  
Republic of the Philippines  
Polish People's Republic  
Portuguese Republic  
Socialist Republic of Rumania  
Republic of Senegal  
Republic of South Africa  
Spanish State  
Kingdom of Sweden  
Swiss Confederation  
Kingdom of Thailand  
Republic of Tunisia  
Republic of Turkey  
United Kingdom of Great Britain and Northern Ireland  
Republic of the Upper Volta  
Eastern Republic of Uruguay  
Socialist Federal Republic of Yugoslavia

PART II,

Andorra  
Kingdom of Cambodia  
Republic of Chile  
Republic of Costa Rica  
Republic of Cuba  
Republic of Ecuador  
Republic of Ghana  
Republic of Guatemala  
Republic of Haiti  
Republic of Kenya  
Kingdom of Laos  
Republic of Liberia  
Republic of Malawi  
Republic of Nicaragua  
Federal Republic of Nigeria  
Republic of Panama  
Republic of Paraguay  
Republic of Peru  
United States of America  
Republic of Venezuela  
Republic of Zambia

SECOND SCHEDULE Regulations 9 (2.) and (3.) and 10 (1.).

Argentine Republic  
United Mexican States  
Republic of the Philippines  
Republic of Turkey  
Eastern Republic of Uruguay



## THIRD SCHEDULE

Regulation 10 (2.).

First Column	Second Column
Republic of Austria .. .. .	1 February 1923
Kingdom of Belgium .. .. .	1 February 1923
Federative Republic of Brazil .. .. .	1 February 1923
People's Republic of Bulgaria .. .. .	1 February 1923
Federal Republic of Cameroon .. .. .	30 April 1969
Democratic Republic of the Congo .. .. .	30 April 1969
Republic of the Congo .. .. .	30 April 1969
Czechoslovak Socialist Republic .. .. .	1 February 1923
Republic of Dahomey .. .. .	30 April 1969
Kingdom of Denmark .. .. .	1 February 1923
Republic of Finland .. .. .	30 April 1969
French Republic .. .. .	1 February 1923
The Overseas Departments and Territories of the French Republic .. .. .	30 April 1969
Gabonese Republic .. .. .	30 April 1969
Federal Republic of Germany .. .. .	1 February 1923
Kingdom of Greece .. .. .	1 February 1923
Holy See .. .. .	30 April 1969
Hungarian People's Republic .. .. .	1 February 1923
Republic of Iceland .. .. .	30 April 1969
State of Israel .. .. .	1 October 1920
Italian Republic .. .. .	1 February 1923
Republic of the Ivory Coast .. .. .	30 April 1969
Japan .. .. .	1 February 1923
Lebanese Republic .. .. .	30 April 1969
Principality of Liechtenstein .. .. .	30 April 1969
Grand Duchy of Luxembourg .. .. .	1 February 1923
Malagasy Republic .. .. .	30 April 1969
Republic of Mali .. .. .	30 April 1969
Principality of Monaco .. .. .	1 February 1923
Kingdom of Morocco .. .. .	1 February 1923
Kingdom of the Netherlands .. .. .	1 February 1923
Republic of the Niger .. .. .	30 April 1969
Kingdom of Norway .. .. .	1 February 1923
Polish People's Republic .. .. .	1 February 1923
Portuguese Republic .. .. .	1 February 1923
The Overseas Provinces of the Portuguese Republic .. .. .	30 April 1969
Socialist Republic of Rumania .. .. .	30 April 1969
Republic of Senegal .. .. .	30 April 1969
Spanish State .. .. .	1 February 1923
Kingdom of Sweden .. .. .	1 February 1923
Swiss Confederation .. .. .	1 February 1923
Kingdom of Thailand .. .. .	30 April 1969
Republic of Tunisia .. .. .	1 February 1923
Republic of the Upper Volta .. .. .	30 April 1969
Socialist Federal Republic of Yugoslavia .. .. .	30 April 1969