



Statutory Rules

1974 No. 4

137/

REGULATIONS UNDER THE COPYRIGHT ACT 1968-1973.*

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Copyright Act 1968-1973*.

Dated this *seventh*
day of *August*, 1974.

John R. Kerr
Governor-General.

By His Excellency's Command,

LIONEL MURPHY
Attorney-General.

AMENDMENTS OF THE COPYRIGHT (INTERNATIONAL PROTECTION) REGULATIONS†

1. Regulation 3 of the Copyright (International Protection) Regulations is amended by adding at the end of sub-regulation (1) the following definitions:—

“ ‘ the International Convention for the Protection of Literary and Artistic Works ’ means the International Convention for the Protection of Literary and Artistic Works concluded at Berne on 9 September 1886 or that Convention as revised from time to time;

‘ the Universal Copyright Convention ’ means the Universal Copyright Convention concluded at Geneva on 6 September 1952 or that Convention as revised from time to time.”.

2. Regulations 6, 7 and 7A of the Copyright (International Protection) Regulations are repealed and the following regulations substituted:—

“ 6. (1) Where copyright subsists in a published sound recording by virtue only of the operation of these Regulations, or the operation of these Regulations and sub-section (3) of section 89 of the Act, 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 unless—

- (c) the maker of the recording was, at the time when the recording was made, a citizen or national of a country specified in the Third Schedule;

Copyright in certain sound recordings not to include the exclusive right to cause the recording to be heard in public.

* Notified in the *Australian Government Gazette* on *4* 1974.
† Statutory Rules 1969, No. 60, as amended by Statutory Rules 1969, No. 65.

8 August/

- (d) 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 specified in the Third Schedule; or
- (e) the recording was made in a country that constitutes, or forms part of, the territory of a country specified in the Third Schedule.

“7. (1) Subject to sub-regulations (2) and (3), where copyright subsists in a published sound recording by virtue only of the operation of these Regulations, or the operation of these Regulations and sub-section (3) of section 89 of the Act, and—

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

- (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 unless—

- (c) the maker of the recording was, at the time when the recording was made, a citizen or national of a country specified in the Third Schedule;
- (d) 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 specified in the Third Schedule; or
- (e) the recording was made in a country that constitutes, or forms part of, the territory of a country specified in the Third Schedule.

“ (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 sub-regulation (2), a supply of records of a musical work shall be disregarded if the supply was done otherwise than by, or with the licence of, the owner of the copyright in the work.”

3. Regulation 10 of the Copyright (International Protection) Regulations is repealed and the following regulation substituted:—

“10. (1) Notwithstanding regulation 4, copyright does not subsist in a published literary, dramatic, musical or artistic work, a published edition, a published sound recording or a published cinematograph film by reason of the fact that—

Restriction of the application of the Act to certain classes of published works and other subject matter.

- (a) the work or edition was first published or the sound recording or cinematograph film was made or first published in a designated country;
- (b) the work, being an artistic work that consists of a building or an artistic work attached to or forming part of a building, is situated in a designated country; or

- (c) the author of the work, the publisher of the edition or the maker of the sound recording or cinematograph film is a citizen or national of, a person resident in, or a body corporate incorporated under the laws of, a designated country,

unless the work, edition, sound recording or cinematograph film was first published on or after the day on which the designated country became a party to the Universal Copyright Convention.

“ (2) For the purposes of this regulation, a reference to a designated country shall be read as a reference to—

- (a) a country; or

(b) a country that constitutes, or forms part of, the territory of a country, that is specified in Part II of the First Schedule and became a member of the Universal Copyright Convention after 1 May 1969.”.

4. (1) Regulation 11 of the Copyright (International Protection) Regulations is amended by adding at the end thereof the following sub-regulations:—

Modification of application of the provisions of the Act.

“ (2) Where—

- (a) an amendment of these Regulations inserts the name of a country in, or adds the name of a country at the end of, a Part of the First Schedule; and
- (b) a person has, at any time before the date on which the amendment comes into operation, 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 view to the doing of any act in relation to a work or any subject-matter at a time when the doing of that act would, but for the amendment, 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 on which the amendment comes into operation unless the person who, by virtue of the operation of these Regulations upon the country being specified in that Part of that Schedule, has the exclusive right to do that act agrees to pay to the first-mentioned person such compensation as is reasonable in the circumstances.

“ (3) Where—

- (a) a Part of the First Schedule is remade;
- (b) the name of a country is, upon the remaking of the Part, specified in the Part; and
- (c) the name of that country was not, immediately before the remaking of the Part, specified in the Part,

the remaking of that Part shall, for the purposes of the last preceding sub-regulation, be deemed to be an amendment of these Regulations that inserts the name of that country in that Part.”.

(2) Sub-regulations (2) and (3) of regulation 11 of the Copyright (International Protection) Regulations as amended by these Regulations apply in relation to the amendments of the Copyright (International Protection) Regulations effected by these Regulations and to each subsequent amendment of the Copyright (International Protection) Regulations.

5. Part I of the First Schedule to the Copyright (International Protection) Regulations is amended—

First
Schedule—
Part I.

- (a) by omitting the word—
“Ceylon ”
and substituting the words—
“Republic of Chad
Republic of Chile ”;
- (b) by omitting the words—
“Democratic Republic of the Congo ”;
- (c) by inserting after the words—
“Kingdom of Denmark ”
the word—
“Fiji ”;
- (d) by inserting after the words—
“Gabonese Republic ”
the words—
“German Democratic Republic ”;
- (e) by omitting the words—
“Kingdom of Greece ”
and substituting the words—
“Greece (Hellenic Republic) ”;
- (f) by inserting after the word—
“Malta ”
the words—
“Islamic Republic of Mauritania
Mauritius ”;
- (g) by inserting after the words—
“Spanish State ”
the words—
“Sri Lanka ”; and
- (h) by inserting after the words—
“Socialist Federal Republic of Yugoslavia ”
the words—
“Democratic Republic of Zaire ”.

6. Part II of the First Schedule to the Copyright (International Protection) Regulations is amended—

First
Schedule—
Part II.

- (a) by inserting before the word—
“Andorra ”
the words—
“Algerian Democratic People’s Republic ”;
- (b) by omitting the words—
“Kingdom of Cambodia
Republic of Chile ”;
- (c) by inserting after the words—
“Republic of Kenya ”
the words—
“Khmer Republic ”; and
- (d) by inserting after the words—
“Republic of Peru ”
the words—
“Union of the Soviet Socialist Republics ”.

7. The Second Schedule to the Copyright (International Protection) Regulations Second Schedule.
is amended by inserting after the words—

“ Argentine Republic ”

the words—

“ Republic of Chad
Republic of Chile
German Democratic Republic
Islamic Republic of Mauritania
Mauritius ”.

8. The Third Schedule to the Copyright (International Protection) Regulations Third Schedule.
is repealed and the following Schedule substituted:—

“THIRD SCHEDULE Regulations 6 and 7

**COUNTRIES WHERE COPYRIGHT IN A RECORDING INCLUDES THE RIGHT TO CAUSE THE RECORDING
TO BE HEARD IN PUBLIC OR TO BROADCAST THE RECORDING.**

Argentine Republic
Republic of Austria
Federative Republic of Brazil
Republic of Costa Rica
Republic of Cyprus
Czechoslovak Socialist Republic
Kingdom of Denmark
Republic of Ecuador
Federal Republic of Germany
Republic of India
State of Israel
Italian Republic
United Mexican States
New Zealand
Federal Republic of Nigeria
Pakistan
Republic of Paraguay
Spanish State
Sri Lanka
Kingdom of Sweden
United Kingdom of Great Britain and Northern Ireland.”.