



Copyright Tribunal (Procedure) Amendment Regulations 2004 (No. 1)¹

Statutory Rules 2004 No. 363²

I, PHILIP MICHAEL JEFFERY, 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 16 December 2004

P. M. JEFFERY
Governor-General

By His Excellency's Command

PHILIP RUDDOCK
Attorney-General

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1 Name of Regulations

These Regulations are the *Copyright Tribunal (Procedure) Amendment Regulations 2004 (No. 1)*.

2 Commencement

These Regulations commence as follows:

- (a) on 1 January 2005 — regulations 1, 2 and 3, and Schedule 1;
- (b) on the commencement of the provisions covered by item 2 of the table in subsection 2 (1) of the *US Free Trade Agreement Implementation Act 2004* — Schedule 2.

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

Schedules 1 and 2 amend the *Copyright Tribunal (Procedure) Regulations 1969*.

Schedule 1 Amendment commencing on 1 January 2005

(regulation 3)

[1] After regulation 33C

insert

33D Applications to Tribunal for determination of reasonable compensation payable — copyright in photographs

- (1) This regulation applies to an application made to the Tribunal under item 118 of the USFTAIA.
- (2) An application must:
 - (a) identify the photograph to which the application relates; and
 - (b) set out the names of the parties to the application, identifying:
 - (i) the owner of the copyright in the photograph (the **copyright owner**); and
 - (ii) the person mentioned in paragraph (1) (b) of item 118 of the USFTAIA (the **copyright user**); and
 - (c) set out the circumstances or events giving rise to the application; and
 - (d) be accompanied by:
 - (i) the written agreement mentioned in paragraph (1) (b) of item 118 of the USFTAIA that is the subject of the application, or a copy of the agreement; or
 - (ii) if the applicant does not have access to the agreement, or a copy — a statement to that effect; and
 - (e) specify the date or the approximate date on which the copyright in the photograph ends; and

- (f) be accompanied by a copy of the written notice of objection (if any) given by the copyright owner to the copyright user; and
 - (g) specify the amount of compensation already offered by the copyright owner to the copyright user and the date on which the offer was made; and
 - (h) ask the Tribunal to determine an amount of reasonable compensation to be paid by the copyright owner to the copyright user.
- (3) If the Tribunal is satisfied that an amount of reasonable compensation must be paid, the Tribunal must specify the date by which the copyright owner must pay the amount of compensation.
- (4) In this regulation:
- owner* has the meaning given by subitem 118 (8) of the USFTAIA.
- USFTAIA* means the *US Free Trade Agreement Implementation Act 2004*.

Schedule 2 **Amendment commencing on
commencement of the
provisions covered by item 2
of the table in subsection 2 (1)
of the *US Free Trade
Agreement Implementation
Act 2004***

(regulation 3)

[1] Before regulation 34

insert

**33E Applications to Tribunal for determination of
reasonable compensation — copyright in works and
other subject matter**

- (1) This regulation applies to an application made to the Tribunal under item 132 of the USFTAIA.
- (2) An application must:
 - (a) identify the work or other subject matter to which the application relates; and
 - (b) set out the names of the parties to the application, identifying:
 - (i) the owner of the copyright in the work or other subject matter (the *copyright owner*); and
 - (ii) the person mentioned in paragraph (1) (b) of item 132 of the USFTAIA (the *copyright user*); and
 - (c) set out the circumstances or events giving rise to the application; and

- (d) be accompanied by:
 - (i) the written agreement mentioned in paragraph (1) (b) of item 132 of the USFTAIA that is the subject of the application, or a copy of the agreement; or
 - (ii) if the applicant does not have access to the agreement, or a copy — a statement to that effect; and
 - (e) specify the date or the approximate date on which the copyright in the work or other subject matter ends; and
 - (f) be accompanied by a copy of the written notice of objection (if any) given by the copyright owner to the copyright user; and
 - (g) specify the amount of compensation already offered by the copyright owner to the copyright user and the date on which the offer was made; and
 - (h) ask the Tribunal to determine an amount of reasonable compensation to be paid by the copyright owner to the copyright user.
- (3) If the Tribunal is satisfied that an amount of reasonable compensation must be paid, the Tribunal must specify the date by which the copyright owner must pay the amount of compensation.
- (4) In this regulation:
owner has the meaning given by subitem 132 (8) of the USFTAIA.
USFTAIA means the *US Free Trade Agreement Implementation Act 2004*.

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; 2001 No. 9.
2. Notified in the *Commonwealth of Australia Gazette* on 23 December 2004.