

Copyright (Libraries) Regulations

(Cap. 528 sub. leg. B)

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Copyright (Libraries) Regulations

(Cap. 528, section 46)

[1 June 1973]

(Format changes—E.R. 2 of 2019)

Editorial Note:

The Copyright (Libraries) Regulations were originally made under the Copyright Act 1956. The Regulations were saved as subsidiary legislation under the Copyright Ordinance (Cap. 528). See paragraph 43 of Schedule 2 to the Ordinance.

1. Citation

These regulations may be cited as the Copyright (Libraries) Regulations.

2. Interpretation

In these regulations, unless the context otherwise requires—

Act means the Copyright Act 1956*, as extended to Hong Kong by the Copyright (Hong Kong) Order 1972**; and

work means a published literary, dramatic or musical work.

Editorial Note:

* 1956 c. 74.

** S.I. 1972/1724.

3. Prescribed classes of library under section 7(1) and (3)

Each of the classes of library specified in the First Schedule shall be a class prescribed for the purposes of section 7(1) and (3) of the Act:

Provided that this regulation shall not apply to any library established or conducted for profit.

4. Prescribed classes of library under section 7(5)

- (1) Each of the classes of library specified in the First or Second Schedule shall be a class prescribed for the purposes of section 7(5) of the Act and, for the purposes of paragraph (a) of that subsection (which relates to the librarian to whom a copy is supplied), and any class of library so specified shall, where appropriate, be deemed to include any library of a similar class situated outside Hong Kong.
- (2) This regulation shall apply to any library of a class so specified whether established or conducted for profit or not.

5. Prescribed classes of library under section 15(4)

Each of the classes of library specified in the First or Second Schedule shall be a class prescribed for the purposes of section 15(4) of the Act.

6. Prescribed conditions under section 7(1) and (3)

- (1) The following conditions shall be conditions prescribed for the purposes of section 7(1) and (3) of the Act (which relate, respectively, to copies of articles in periodical publications and copies of parts of other works)—
 - (a) no copy of any work or any part of a work shall be made for or supplied to any person unless he has delivered to the librarian concerned, or to some person appointed by the librarian for that purpose, a declaration and undertaking in writing in relation to that work or part, substantially in accordance with the form set out in the Third Schedule and signed in the manner therein indicated;

- (b) for the purposes of subsection (1) (which relates to copies of articles in periodical publications) no copy extending to more than one article in any one publication shall be made;
 - (c) for the purposes of subsection (3) (which relates to copies of parts of other works) no copy extending to more than a reasonable proportion of a work shall be made;
 - (d) persons to whom copies are supplied shall be required to pay for such copies a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production.
- (2) For the purposes of paragraph (1)(c)—
- (a) a reasonable proportion of a work means—
 - (i) in the case of a single extract, not more than 4,000 words;
 - (ii) in the case of a series of extracts, not more than 3,000 words per extract, with a total of not more than 8,000 words; and
 - (iii) in any case, not more than 10% of the work; and
(*E.R. 2 of 2019*)
 - (b) poems, essays and other short literary works shall be regarded as whole works and not as parts of the volume in which they are published.

7. Prescribed conditions under section 7(5)

The following conditions shall be the conditions prescribed for the purposes of section 7(5) of the Act, (which relates to the making and supplying of copies of any works or parts of works to librarians)—

- (a) no copy of a work or a part of a work shall be made for or supplied to the librarian of any library, if a copy of that work or that part has already been supplied to any person as a librarian of that library, unless the librarian by or on behalf of whom the copy is made is satisfied that the copy already supplied has been lost, destroyed or damaged;
- (b) librarians to whom copies are supplied shall be required to pay for such copies a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production; and
- (c) no copy shall be supplied to the librarian of a library that is established or conducted for profit.

8. Restriction on the making of copies

Nothing in regulation 6 or 7 shall be taken to authorize the librarian of any library to make or supply a copy of any work or part of a work (other than an article in a periodical publication) for or to any other person (whether that person is the librarian of another library or not) if at the time when the copy is made the librarian knows the name and address of a person entitled to authorize the making of the copy or could by reasonable inquiry ascertain the name and address of such a person.

9. Prescribed conditions under section 15(4)

- (1) The provisions of paragraph (2) of this regulation shall be the conditions prescribed for the purposes of section 15(4) of the Act (which relates to reproductions of the typographical arrangements of published editions of works).
- (2) A reproduction of the typographical arrangement of a published edition of a work or a part thereof may be made or supplied in pursuance of section 15(4) only in the circumstances and upon the conditions in and upon which a

copy of that work or part may, by virtue of the provisions of Part I of the Act, be made or supplied without infringing the copyright in that work under Part I:

Provided that for the purposes of section 15(4) of the Act a reproduction of the typographical arrangement of a published edition of a work may be made without infringing the copyright in the published edition notwithstanding that the librarian by or on behalf of whom the reproduction is made knows, at the time it is made, the name and address of a person who is entitled to authorize the making of such a copy or such a reproduction or could by reasonable inquiry ascertain the name and address of such a person.

First Schedule

[regs. 3, 4 & 5]

- I. Any library in Hong Kong to which section 15 of the Copyright Act 1911 applied until the Copyright Act 1956 was brought into operation* in Hong Kong.
- II. Any library of a school (as defined by section 41(7) of the Act), university, college of a university or university college.
- III. Any library administered under the Public Health and Municipal Services Ordinance (Cap. 132). (*17 of 2018 s. 133*)
- IV. Any library administered as part of a Government Department.
- V. Any library conducted for, or administered by any establishment or organization conducted for, the purposes of facilitating or encouraging the study of all or any of the following religion, philosophy, science (including any natural or social science), technology, medicine, history, literature, languages, education bibliography, fine arts, music or law.

Editorial Note:

* Commencement date: 5 November 1956.

Second Schedule

[regs. 4 & 5]

Any library which makes works in its custody available to the public free of charge.

Third Schedule

[reg. 6]

FORM OF DECLARATION AND UNDERTAKING

To

The Librarian of

the

Library

(*Address*)

1. I [] of [] hereby request you to make and supply to me *[a copy of (*particulars of article*)] *[a copy of (*particulars of work of which a part is required to be supplied and particulars of that part*)], which I require for the purposes of research or private study.

2. I have not previously been supplied with a copy of *[the said article] *[the said part of the said work] by any librarian.

3. I undertake that if a copy is supplied to me in compliance with the request made above, I will not use it except for the purposes of research or private study.

Signature

Date

[*Note:* This must be the personal signature of the person making the request. A stamped or typewritten signature or the signature of an agent is NOT sufficient.]

* Delete whichever is inappropriate.