

COPYRIGHT (APPLICATION TO OTHER COUNTRIES) REGULATIONS 1990*

In exercise of the powers conferred by section 59A of the Copyright Act 1987, the Minister makes the following regulations:

1. Citation, commencement and application.

(1) These Regulations may be cited as the **Copyright (Application to Other Countries) Regulations 1990** and shall come into force on the 1st October 1990.

(2) These Regulations shall, unless otherwise provided, apply in relation to works made before the commencement of these Regulations as they apply in relation to works made thereafter.

2. Interpretation.

In these Regulations, unless the context otherwise requires

"at the material time" means

(a) in relation to, or in relation to the application of the Act in respect of, an unpublished work, at the time when the work was made; and

(b) in relation to, or in relation to the application of the Act in respect of, a published work, at the time when the work was first published;

"Berne Convention" means the Berne Convention for the Protection of Literary and Artistic Works 1886 and shall include all acts, protocols and revisions thereto;

"country of origin" means

(a) in the case of a published work, if the country of first publication is one of the specified countries, that country;

(b) in the case of a work first published in one of the specified countries and a country which is not a member of the Berne Convention, the former country;

(c) in the case of a work which is first published in several of the specified countries, the country whose laws give the shortest term of protection in such a work;

(d) in the case of a work which is unpublished or which is first published only in a country which is not a member of the Berne Convention, any of the specified countries of which the author is a citizen or resident at the material time; and

"specified countries" means the countries which are members of the Berne Convention.

**Published as P.U. (A) 314/90 and corrected by P.U. (A) 340/90. and P.U. (A) 18/93 and amended by P.U (A) 243/94*

3. Literary, musical, artistic works, films.

Subject to these Regulations, the provisions of the Act shall apply in relation to

(a) literary, musical or artistic works, or films first published in the respective specified countries as they apply in relation to literary, musical or artistic works, or films first published in Malaysia;

(b) works of architecture erected in the respective specified countries or any other artistic works incorporated in buildings located in the respective specified countries as they apply in relation to

works of architecture erected in Malaysia or any other artistic works incorporated in buildings located in Malaysia;

(c) every work, other than sound recordings, broadcasts and published editions of literary, musical or artistic works, eligible for copyright if the work is made in the respective specified countries as they apply in relation to every work eligible for copyright if the work is made in Malaysia;

(d) derivative works, other than derivative works of sound recordings, broadcasts and published editions of literary, musical or artistic works, in the respective specified countries as they apply in relation to derivative works in Malaysia;

(e) persons who, at the material time, are citizens of, or residents in, the respective specified countries as they apply in relation to persons who, at such a time, are citizens of, or permanent residents in, Malaysia; and

(f) bodies corporate incorporated under the laws of the respective specified countries as they apply in relation to bodies corporate established in Malaysia and constituted or vested with legal personality under the laws of Malaysia.

4. Sound recordings, broadcasts, published editions.

(1) Subject to these Regulations, the provisions of the Act shall apply in relation to

(a) sound recordings made or first published in a country specified in Schedule 1 as they apply in relation to sound recordings made or first published in Malaysia;

(b) broadcasts transmitted from a country specified in Schedule 2 as they apply in relation to broadcasts transmitted from Malaysia;

(c) published editions of literary, musical or artistic works first published in a country specified in Schedule 3 as they apply in relation to published editions of literary, musical or artistic works first published in Malaysia;

(d) derivative works of such sound recordings, broadcasts or published editions in a country specified in Schedule 1,2 or 3, as the case may be, as they apply in relation to derivative works of sound recordings, broadcasts or published editions in Malaysia;

(e) persons who, at the material time, are citizens of, or residents in, a country specified in Schedule 1,2 or 3, as the case may be, as they apply in relation to persons who, at such a time, are citizens of, or permanent residents in, Malaysia; and

(f) bodies corporate incorporated under the laws of a country specified in Schedule 1,2 or 3, as the case may be, as they apply in relation to bodies corporate established in Malaysia and constituted or vested with legal personality under the laws of Malaysia.

5. Duration of copyright.

(1) Subject to subregulation (2), copyright subsisting in a work by reason only of the commencement of these Regulations ceases to subsist upon the expiration of the duration of the protection in the nature of copyright that subsists in relation to such a work under the laws of the country of origin of the work or the respective country specified in Schedule 1,2 or 3, as the case may be.

(2) In any case where copyright in a work subsists by reason only of the commencement of these Regulations, the duration of the protection in the nature of copyright referred to in subregulation (1) shall not exceed the duration of the protection in the nature of copyright as provided under the Act in respect of such a work.

SCHEDULE 1 (Regulation 4 (1) (a))
COUNTRIES ENJOYING PROTECTION FOR SOUND RECORDINGS

1. United States of America (including Puerto Rico, Guam and the Virgin Islands of the United States of America).
2. United Kingdom.

SCHEDULE 2 (Regulation 4 (1) (b))
COUNTRIES ENJOYING PROTECTION FOR BROADCASTS

1. United Kingdom.

SCHEDULE 3 (Regulation 4 (1) (c))
COUNTRIES ENJOYING PROTECTION FOR PUBLISHED EDITIONS

1. United Kingdom.

Made the 21st September 1990.

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Minister of Trade and Industry