

THE COPYRIGHT (CUSTOMS) REGULATIONS, 2000

Arrangement of Regulations

Regulation

1. Citation
2. Interpretation
3. Notice to Comptroller
4. Administrative fee
5. Evidence in support of notice
6. Notification of change in particulars
7. Notification of acceptance or rejection of notice
8. Security
9. Release of security
10. Indemnity
11. Notice of seizure
12. Notice of refusal to seize
13. Inspection of copies and taking of samples
14. Release of copies seized

Schedule

LEGAL NOTICE NO. 37

REPUBLIC OF TRINIDAD AND TOBAGO

THE COPYRIGHT ACT, 1997

REGULATIONS

MADE BY THE MINISTER UNDER SECTIONS 48 AND 57 OF THE
COPYRIGHT ACT, 1997

THE COPYRIGHT (CUSTOMS) REGULATIONS, 2000

1. These Regulations may be cited as the Copyright (Customs) Regulations, 2000.

2. In these Regulations—

“Act” means the Copyright Act, 1997;

“Comptroller” means the Comptroller of Customs and Excise;

“importer” has the meaning assigned to it under section 2 of the Customs Act.

Interpretation

Act No. 8 of
1997

Chap. 78:01

3. (1) A notice to the Comptroller under section 48(1) of the Act shall be in the form set out as Form 1 or 2 in the Schedule.

Notice to
Comptroller
Schedule

(2) A separate notice in the form set out as Form 1 or 2 shall be given in respect of each published work or sound recording.

(3) A notice in the form set out as Form 1 or 2 shall be accompanied by a declaration in the form set out as Form 3 in the Schedule.

4. An administrative fee of forty dollars shall accompany each separate notice to the Comptroller under regulation 3.

Administra-
tive fee

5. (1) A person who has given notice to the Comptroller under section 48(1) of the Act shall at the time of giving the notice or at the time when the work or sound recording is imported or at both such times furnish to the Comptroller such evidence and information in support of the notice, within such time and in such form as the Comptroller may require, including, wherever possible—

Evidence in
support of
notice

(a) a sufficiently detailed description of the published work or sound recording in respect of which copyright or neighbouring rights subsist, together, where appropriate, with a sample of such work or sound recording;

- (b) a sufficiently detailed description of the manner in which the copy infringes the copyright or neighbouring right, together, where possible, with a sample of such copy;
- (c) the identity of the importer of the suspected work or sound recording;
- (d) the country or countries of origin of the suspected work or sound recording;
- (e) the country or countries of manufacture of the suspected work or sound recording;
- (f) as far as he is able to state, the identity of each foreign person or business entity involved in the manufacture and/or distribution of the suspected work or sound recording;
- (g) the mode of transportation and identity of the transporter of the suspected work or sound recording;
- (h) the port or ports where it is anticipated that the suspected work or sound recording will arrive in Trinidad and Tobago;
- (i) the anticipated date or dates of arrival in Trinidad and Tobago.

(2) Where any such evidence is not furnished as required by the Comptroller, the notice may be deemed to have been withdrawn as from the expiry of such time as may be required by subregulation (1).

Notification
of change in
particulars

6. (1) A person who has given notice under section 48(1) of the Act shall notify the Comptroller in writing of any change in the particulars specified in the notice or any subsequent information furnished to the Comptroller within thirty days of the change.

(2) Where the notice is of a change of ownership of copyright or neighbouring rights in a work or sound recording to which section 48(1) of the Act relates, such notice shall, subject to subregulation (3), remain in force for a period of thirty days after receipt of the notice by the Comptroller.

(3) A notice under section 48(1) of the Act shall be deemed to have been withdrawn—

- (a) upon the expiration of the period specified in subregulation (2); or
- (b) upon the giving of notice under section 48(1) of the Act by the new owner of copyright or neighbouring rights in the work or sound recording,

whichever is earlier.

7. (1) Upon receipt of a notice under section 48(1) of the Act, the Comptroller shall, within ten days of the receipt, notify, in writing, the person giving the notice whether the notice satisfies the requirements of these Regulations or not. Notification of acceptance or rejection of notice

(2) Where the notice satisfies the requirements of these Regulations the Comptroller shall accept the notice and inform the person giving the notice of its acceptance.

(3) Where the notice does not satisfy the requirements of these Regulations the Comptroller may either reject the notice or reserve the same for further consideration, pending the provision of such information in such form and within such time as the Comptroller may require.

(4) Where any such information is not provided as required by the Comptroller under subregulation (3) the notice shall be rejected.

(5) Where the notice has been rejected the Comptroller shall inform the person giving the notice of its rejection and of the reasons therefor and deliver the copies to the importer.

(6) A notice accepted under subregulation (2) shall remain in force for the period specified in the notice unless—

(a) it is withdrawn, in writing, by the person giving the notice;
or

(b) the Court orders that the notice be set aside.

8. (1) The Comptroller shall from time to time require the person who has given notice under section 48(1) of the Act to provide to the Comptroller such security or further security, within such time and in such manner, whether by way of bond, deposit of a sum of money or otherwise, as the Comptroller may specify, against all actions, proceedings, claims and demands whatsoever which may be taken or made against, or costs and expenses which may be incurred by the Comptroller in consequence of the seizure of any copy of a work or sound recording to which the notice relates. Security

(2) Such security or further security may be given—

(a) at the time the notice is given; or

(b) at such other time as the Comptroller may require.

(3) Where such security or further security is not given within the time or in the manner specified by the Comptroller he shall deliver the copies to the importer.

9. The security shall be released in the following circumstances— Release of security

(a) where there is no seizure;

- (b) if the seizure is completed, either by effluxion/lapse of time or ultimate condemnation by a Court;
- (c) if the seizure is not completed and the copies are released by the Comptroller and no action or suit has been commenced against the Comptroller in respect of the seizure, then at the expiration of six months from the time of the seizure;
- (d) if within the period specified in paragraph (c) action or suit is commenced, then upon the conclusion of such action or suit and the fulfillment of the purpose for which the security was given.

Indemnity

10. (1) In every case—

- (a) in which the comptroller has not required security or further security to be given under regulation 8;
- (b) in which the Comptroller has taken security and that security is insufficient; or
- (c) in which the notice is deemed to have been withdrawn under regulation 5(2) or 6(3),

the person giving the notice and the owner of copyright or neighbouring rights in the work or sound recording to which the notice relates shall—

- (i) jointly and severally agree to keep the Comptroller indemnified against all actions, proceedings, claims and demands whatsoever which may be taken or made against him; and
- (ii) repay the Comptroller all costs and expenses which may be incurred by him in consequence of the seizure of, or any thing done in relation to any copy of a work or sound recording to which the notice relates.

(2) Any such costs, expenses, damages or other sums may be recoverable as a debt due to the State.

Notice of seizure

11. Where the Comptroller is satisfied that copies of a work or sound recording are to be treated as prohibited goods pursuant to section 48(1) of the Act and these Regulations, he shall, within ten days of his decision, give (either personally or by post) to—

- (a) the person giving the notice; and
- (b) the importer of the copies,

notice, in writing, in the form set out as Form 4 or 5 in the Schedule.

Notice of refusal to seize

12. If the person giving the notice under section 48 of the Act fails to—

- (a) comply with any requirement of the Comptroller under these Regulations;

- (b) comply with any of the provisions in these Regulations; or
- (c) agree to indemnify the Comptroller against any action or expense as provided for in regulation 10,

the Comptroller may refuse to seize any copies of a work or sound recording to which the notice relates and shall, within ten days of his decision, notify, in writing, the person giving the notice, in the form set out as Form 6 in the Schedule.

13. (1) The Comptroller shall allow the owner of copyright or neighbouring rights in the work or sound recording and the importer sufficient opportunity to inspect the copies which have been seized and to take samples in order to substantiate or defend any action or proceedings that may be brought by virtue of section 48 of the Act. Inspection of copies and taking of samples

(2) Samples shall be accounted for in such manner as the Comptroller may direct.

14. (1) The Comptroller shall release any copies seized pursuant to the Act or these Regulations to the importer, if— Release of copies seized

- (a) within the period specified in a notice given under section 48(1) or the time limited for bringing an action under the Act, whichever is later, the owner of copyright or neighbouring rights has—
 - (i) not brought an action for infringement of rights in copyright or neighbouring rights, or obtained, pending the initiation or determination of such an action, an order of the Court prohibiting the release of the copies; and
 - (ii) not given to the Comptroller notice in writing in the form set out as Form 7 in the Schedule, of the action or the order;
 - (iii) consented, by notice in writing in the form set out as Form 8 in the Schedule, to the release of the copies;
- (b) the Comptroller is served with an order of the Court that the copies be released;
- (c) an action for infringement of rights in copyright or neighbouring rights is determined in favor of the importer of the copies; or
- (d) an action for infringement of rights in copyright or neighbouring rights is withdrawn or discontinued.

(2) The Comptroller may, within the period specified in the notice, release any copies seized pursuant to the Act or these Regulations to the importer, if, having regard to information that has come to his knowledge after the copies have been seized, the Comptroller is satisfied that the copies ought not to have been seized, provided all customs formalities have been complied with and the release of the copies are not otherwise contrary to the laws of Trinidad and Tobago.

SCHEDULE

Regulation 3(1)

FORM 1

*Copyright Act, 1997***Notice of Importation of Published Works**

To: The Comptroller of Customs and Excise:

I,
of

hereby give notice that an infringement of copyright in the original work specified in the Schedule to this Notice subsists under the Copyright Act, 1997 and that (1)

the owner of copyright in the work and requests that copies of the said work made outside of Trinidad and Tobago and which are identified in the Schedule to this Notice be treated as prohibited goods and not be imported into Trinidad and Tobago for a period up to and including (2) pursuant to section 48 of the Copyright Act, 1997.

Dated this day of , 20

Signature:

.....
(3)

SCHEDULE

Title of work:

Description of work:

Full name of author or authors: (4)

If the author or any one or more of the authors of the work is dead the name of deceased author or authors and the date or dates of death: (5)

Date and place of first publication of work: (6)

Description of infringing copies to be prohibited: (7)

NOTES TO FORM 1

- (1) If the Notice is given by the owner of copyright, insert "I am", if given by an agent or if the owner is a company or other body, insert the full name of the owner and the word "is".
- (2) Specify the period for which requests treatment as prohibited goods. This period should not exceed 5 years or extend beyond the end of the period for which copyright subsists.
- (3) If an agent insert "Agent of the owner" or if a company or other body insert the name of the company and the position held by the signatory in the company.
- (4) If the author is anonymous or pseudonymous this should be stated. Also state the period for which copyright subsists.
- (5) Omit if the author is anonymous or pseudonymous.
- (6) State the country and date of first publication.
- (7) Give sufficient information to identify the infringing copies including the name of the publishers and country of publication, if known. If a particular shipment is to be prohibited insert details of that shipment. If all importations of whatever source are to be prohibited this should be stated. If importation of some copies only are to be prohibited provide details of the source of those copies.

Notice of Importation of Published Sound Recordings

To: The Comptroller of Customs and Excise:

I,
of

hereby give notice that an infringement of neighbouring rights in the sound recording specified in the Schedule to this Notice subsists under the Copyright Act, 1997 and that (1) the owner of neighbouring rights in the sound recording and requests that copies of the said sound recording made outside of Trinidad and Tobago and which are identified in the Schedule to this Notice be treated as prohibited goods and not be imported into Trinidad and Tobago for a period up to and including (2) pursuant to section 48 of the Copyright Act, 1997.

Dated this day of , 20

Signature:

.....
(3)

SCHEDULE

Title of sound recording:

Description of sound recording:

Initials or marks (if any) placed on copies of sound recording:

Full name of maker or makers of sound recording:

Date and place of first publication of sound recording: (4)

Date and place of making of sound recording: (5)

Description of infringing copies to be prohibited: (6)

NOTES TO FORM 2

- (1) If the Notice is given by the owner of neighbouring right, insert "I am", if given by an agent, insert the name of the owner and the word "is".
- (2) Specify the period for which requests treatment as prohibited goods. This period should not exceed 5 years or extend beyond the end of the period for which the neighbouring rights subsist.
- (3) If an agent insert "Agent of the owner" or if a company or other body insert the name of the company and the position held by the signatory in the company.
- (4) State the country and date of first publication.
- (5) State the country and date of manufacture.
- (6) Give sufficient information to identify the infringing copies including the name of the publishers and country of publication, if known. If a particular shipment is to be prohibited insert details of that shipment. If all importations of whatever source are to be prohibited this should be stated. If importation of some copies only are to be prohibited provide details of the source of those copies.

Regulation 3(3)

FORM 3

*Copyright Act, 1997***Statutory Declaration**

I, _____ of _____
do solemnly declare that the contents of the Notice annexed hereto are true and I make this
declaration conscientiously believing the same to be true and according to the provisions of
the Statutory Declarations Act, Chap. 7:04.

Signature

Declared by the above-named

this _____ day of _____, 20____

Before me,

Commissioner of Affidavits

Regulation 11

FORM 4

*Copyright Act, 1997***Notice of Seizure of Infringing Copies**

To:

(importer)

of _____

NOTICE is hereby given that the copies specified in the Schedule hereto have been seized
pursuant to section 48 of the Copyright Act, 1997.

SCHEDULE

The Comptroller of Customs and Excise

Regulation 11

FORM 5

Copyright Act, 1997

Notice of Seizure of Infringing Copies

To:

(owner/agent of owner)

of

Re:

Pursuant to Notice of Importation dated:

NOTICE is hereby given that the copies specified in the above-mentioned Notice have been seized pursuant to section 48 of the Copyright Act, 1997.

The importer of the copies is

of

TAKE NOTICE that the said copies may be released to the importer for any of the reasons specified in regulation 14 of the Copyright (Customs) Regulations, 2000

The Comptroller of Customs and Excise

Regulation 12

FORM 6

Copyright Act, 1997

Notice of Refusal to Seize

To:

(owner/agent of owner)

of

Re:

Pursuant to Notice of Importation dated:

NOTICE is hereby given that the copies specified in the above-mentioned Notice have not been seized for the following reason(s).

The Comptroller of Customs and Excise

Regulation 14(1)(a)(ii)

FORM 7

Copyright Act, 1997

**Notice of Action for Infringement of Rights in Copyright
or Neighbouring Rights**

To: The Comptroller of Customs and Excise

Re:

*Pursuant to Notice of Importation dated:

**I/We

of

being the owner of the copies seized pursuant to the above-mentioned Notice hereby give
notice that † Action No./Order No.

was commenced/made on

in the ‡

with respect to the infringement of copyright/neighbouring rights in the work or sound
recording to which the above-mentioned Notice relates

Date

Signature ‡

.....

* Briefly state the name of the work/sound recording to which the Notice relates.** If a natural person insert the person's full name. If a company or body insert the
company or body's full name.† Insert the number of the action or order and the full name of the Court as they appear in
documents filed with the Court or issued by the Court. Attach a copy of all documents filed
with the Court or a copy of the order issued by the Court.‡ If notice is given by a company or body insert the name and position of the signatory in
the company or body.

FORM 8

Regulation 14(1)(a)(iii)

*Copyright Act, 1997***Notice of Consent to Release of Copies**

To: The Comptroller of Customs and Excise

Re:

* Pursuant to Notice of Importation dated:

** I/We

of

being the owner of the copies seized pursuant to the above-mentioned Notice hereby consent to the release of the said copies/the copies specified hereunder: †

*Description of Copies**Number of Packages*

Date

Signature ‡

.....

* Briefly state the name of the work/sound recording to which the Notice relates.

** If a natural person insert the person's full name. If a company or body insert the company or body's full name.

† Insert the description of the copies and the number of packages, if known.

‡ If notice is given by a company or body insert the name and position of the signatory in the company or body.

Made by the Minister this 14th day of January, 2000.

R. L. MAHARAJ
*Attorney General
 and Minister of Legal Affairs*

Laid in the House of Representatives this 21st day of January, 2000.

J. SAMPSON-JACENT
Clerk of the House

Laid in the Senate this 25th day of January, 2000.

N. COX
Clerk of the Senate