

Copyright Bill

Bill No. /2021.

Read the first time on 2021.

COPYRIGHT ACT 2021

(No. of 2021)

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY

Section

1. Short title and commencement
2. Application to things existing before commencement dates
3. Extension of Act to reciprocating countries
4. Exclusion of non-reciprocating countries from Act
5. Savings for other laws
6. Act to bind Government

PART 2

INTERPRETATION

Division 1 — General

7. General interpretation

Division 2 — Works and Performances

Subdivision (1) — Authorial Works in General

8. What is an authorial work
 9. What is a work of joint authorship
 10. Reference to author includes all joint authors
 11. What is an authorial work with an identified author
- ##### *Subdivision (2) — Literary, Dramatic and Musical Works*
12. Literary work includes computer programs and compilations
 13. Subject-matter of copyright in compilations
 14. What does a dramatic work include

15. When is a literary, dramatic or musical work made

*Subdivision (3) — Adaptations of
Literary, Dramatic or Musical Works*

16. Adaptation of work includes adaptation of substantial part
adaptation of whole
17. What is an adaptation of a literary or dramatic work
18. What is an adaptation of a musical work

Subdivision (4) — Artistic Works

19. What is an artistic work
20. Who is the author of a photograph

Subdivision (5) — Sound Recordings

21. What is a sound recording
22. When is a sound recording made
23. Who is the maker of a sound recording
24. Application to sound recordings of performances

Subdivision (6) — Films

25. What is a film; what are the visual images, sounds and
sound-track of the film
26. What is the making of a film
27. Who is the maker of a film

Subdivision (7) — Television Broadcasts and Sound Broadcasts

28. What does broadcast mean
29. What is broadcasting
30. What is a television broadcast
31. What is a sound broadcast
32. Who is the maker of a television or sound broadcast
33. Where is a television or sound broadcast made
34. When is a television or sound broadcast made
35. When is a record embodying a sound recording, or a copy of
a film, used in a broadcast

Subdivision (8) — Cable Programmes

36. What is a cable programme
37. What is inclusion in a cable programme service
38. What is a cable programme service

Subdivision (9) — Qualifying Performances

39. What is a qualifying performance

Division 3 — Acts relating to Works and Performances

Subdivision (1) — General

40. Acts done in relation to work, etc., includes act done in relation to substantial part of work
41. Acts done in relation to performance, etc., includes act done in relation to substantial part of performance

Subdivision (2) — Making Copies and Reproductions

42. Reproduction or copy of work includes reproduction or copy of substantial part
43. Reproducing work by making temporary or incidental copy
44. Reduction of authorial work or adaptation to material form, or reproducing authorial work or adaptation, by storage in computer or on any other medium
45. Reproducing authorial work or adaptation as film or sound recording, or by conversion into or from machine-readable forms
46. Reproducing artistic work in different dimensions
47. What is a reasonable portion when copying a literary, dramatic or musical work in a published edition
48. What is a copy of a film
49. What is a film of a television broadcast; what is a copy of such a film
50. What is a copy of a sound recording
51. What is a recording of a protected performance

*Subdivision (3) — Publication of
Authorial Works, Sound Recordings and Films*

52. What amounts to publication of an authorial work
53. What amounts to publication of an edition of an authorial work
54. What amounts to publication of a sound recording (including a recording of a protected performance)
55. What amounts to publication of a film
56. Matters to be considered or disregarded for publication, first publication, and publication before death
57. Specific acts which do not amount to publication

Subdivision (4) — Communication of Works and Performances

- 58. What does communicate mean
- 59. Who is the maker of a communication

Subdivision (5) — Transmission and Receptions of Broadcasts

- 60. What is doing an act by the reception of a broadcast
- 61. What is a re-transmission of a broadcast

Subdivision (6) — Performing Authorial Works and Adaptations

- 62. What does a performance of an authorial work or adaptation include
- 63. Performance by operating receiving apparatus
- 64. Performance by occupier of premises

Subdivision (7) — Causing Visual Images or Sounds of Non-Authorial Works to be Seen or Heard

- 65. Communication not included
- 66. Causing by operation of receiving apparatus
- 67. Causing by occupier of premises

Subdivision (8) — Commercial acts

- 68. What is a commercial dealing in an article or a thing
- 69. What is a commercial rental arrangement relating to a sound recording or computer program

Division 4 — Relevant Persons and Organisations

Subdivision (1) — Qualified individuals and persons

- 70. Who is a qualified individual
- 71. Who is a qualified person
- 72. Who is a Singapore resident
- 73. Country of residence not affected by temporary absence

Subdivision (2) — International Organisations

- 74. Prescribed international organisations
- 75. Legal capacity of prescribed international organisation

Subdivision (3) — Educational institutions

- 76. What is an educational institution
- 77. What is the body administering an educational institution

Subdivision (4) — Persons with Print Disabilities

- 78. Who is a person with a print disability
- 79. What is an institution aiding persons with print disabilities
- 80. What is the body administering an institution aiding persons with print disabilities
- 81. What is a foreign institution aiding persons with print disabilities

Subdivision (5) — Persons with Intellectual Disabilities

- 82. What is an institution aiding persons with intellectual disabilities
- 83. What is the body administering an institution aiding persons with intellectual disabilities

*Subdivision (6) — Public Collections:
Galleries, Libraries, Archives and Museums*

- 84. What is a public collection
- 85. What is an archive
- 86. What is the custodian of a public collection
- 87. Who is an authorised officer of a public collection

Division 5 — Rights and Rights Infringements

Subdivision (1) — General

- 88. Who is a rights owner
- 89. What is a rights infringement
- 90. What is an infringing copy of a copyrighted work or protected performance
- 91. What is a flagrantly infringing online location

Subdivision (2) — Copyright

- 92. What are acts comprised in copyright of work
- 93. What does it mean to do thing with or without the licence of copyright owner
- 94. If there is more than one copyright owner for a work, which owner is relevant
- 95. What is an exclusive licence

Division 6 — Miscellaneous

- 96. When is a sound or visual image embodied in an article or thing
- 97. What is sufficient acknowledgment of authorial work

PART 3

COPYRIGHT IN WORKS

Division 1 — General

- 98. Copyright subsists only by virtue of this Act
- 99. Copyrights to subsist independently
- 100. Nature of copyright

Division 2 — Authorial Works

- 101. Conditions for copyright to arise in unpublished authorial works
- 102. Conditions for copyright to arise or continue in published authorial works
- 103. Conditions for copyright to arise in buildings
- 104. Nature of copyright in literary, dramatic and musical works
- 105. Nature of copyright in artistic works
- 106. Duration of copyright in authorial works
- 107. Duration of copyright in authorial works — transitional provision

Division 3 — Published Editions of Authorial Works

- 108. Conditions for copyright to arise in published editions of works
- 109. Nature of copyright in published editions of works
- 110. Duration of copyright in published editions of works

Division 4 — Sound Recordings

- 111. Conditions for copyright to arise in sound recordings
- 112. Nature of copyright in sound recordings
- 113. Duration of copyright in sound recordings

Division 5 — Films

- 114. Conditions for copyright to arise in films
- 115. Nature of copyright in films
- 116. Duration of copyright in films

Division 6 — Television and Sound Broadcasts

- 117. Conditions for copyright to arise in television or sound broadcasts
- 118. Nature of copyright in television or sound broadcasts

- 119. Duration of copyright in television or sound broadcasts
- 120. Duration of copyright in repeat broadcasts

Division 7 — Cable Programmes

- 121. Conditions for copyright to arise in cable programmes
- 122. Nature of copyright in cable programmes
- 123. Duration of copyright in cable programmes

Division 8— Ownership and Transactions

- 124. First owner — maker of work is default first owner
- 125. First owner — copyright arising in the course of employment
- 126. First owner — work commissioned before appointed date
- 127. First owner — Government and prescribed international organisations
- 128. Transfer of copyright
- 129. Assignment — formalities
- 130. Assignment — partial assignment
- 131. Assignment — assignment of future copyright
- 132. Licences — licence of future copyright
- 133. Licences — formalities for exclusive licence
- 134. Licences — licence binds successor owners except bona fide purchaser
- 135. Death — devolution of copyright that arises after would-be owner dies
- 136. Death — bequest of manuscript, etc., includes any copyright therein

Division 9 — Infringement of Copyright

Subdivision (1) — What is an infringement of copyright

- 137. Infringement by doing act comprised in copyright
- 138. Infringement by importation for commercial dealing, etc.
- 139. Infringement by commercial dealing, etc., in infringing copy
- 140. Accessory to imported article to be disregarded for purposes of sections 138 and 139 in certain circumstances
- 141. Infringement by making device that facilitates access to infringing online content
- 142. Infringement by dealing in device or service facilitating access to infringing online content

- 143. Infringement by failure to pay equitable remuneration for causing sounds embodied in commercially published sound recordings to be heard in public
- 144. Exceptions to infringement

Subdivision (2) — Action for Infringement

- 145. Action for infringement
- 146. Limitation of action
- 147. Remedies and border enforcement measures

Subdivision (3) — Infringement Action Involving Flagrantly Infringing Online Locations

- 148. Notice to and rights of online location owner

Subdivision (4) — Infringement Actions where Exclusive Licensee has Concurrent Right of Action

- 149. Application and definitions
- 150. Joinder and costs
- 151. Same defences and same remedies available
- 152. Assessment of damages
- 153. Apportionment of profits
- 154. Separate actions for same infringement

Subdivision (5) — Presumptions in Infringement Actions

- 155. Application
- 156. Presumption that copyright exists if not disputed, etc.
- 157. Presumption that claimant owns copyright if not disputed, etc.
- 158. Presumption of authorship where name appears
- 159. Presumption of authorship of photograph
- 160. Presumptions where authorial work is first published in Singapore
- 161. Presumptions where author is dead
- 162. Presumptions as to anonymous or pseudonymous literary, dramatic, musical or artistic work
- 163. Presumptions relating to label or mark on sound record
- 164. Presumptions as to maker of film

PART 4

PROTECTION OF PERFORMANCES

- 165. Interpretation of this Part
- 166. Protected performances
- 167. Duration of protection
- 168. Infringing use — general
- 169. Infringing use — commercial dealing in unauthorised recordings, etc.
- 170. Action for infringing use of protected performance
- 171. Presumptions relating to identity of performers
- 172. Remedies and border enforcement measures
- 173. Assignment of right to bring action
- 174. Limitation of action
- 175. Other rights not affected

PART 5

PERMITTED USES OF
COPYRIGHT WORKS AND
PROTECTED PERFORMANCES*Division 1 — General Provisions*

- 176. Permitted uses
- 177. Permitted uses are independent
- 178. Permitted uses may go beyond scope of copyright or protection of performances
- 179. Permitted uses may be restricted or excluded by reasonable contract term
- 180. Permitted uses that may not be excluded or restricted
- 181. Evasion through choice of law clause to be void

Division 2 — Fair use

- 182. Fair use is permitted use
- 183. Fair use — relevant factors
- 184. Fair use — research and study
- 185. Fair use — criticism or review
- 186. Fair use — reporting news

Division 3 — Education and Educational Institutions

187. Definition: what is a recording or copy made or used for the educational purposes of an educational institution
188. Copying authorial work by non-reprographic means for course of education
189. Copying or communicating very small portions of literary or dramatic work for course of education provided by educational institution
190. Copying or communicating authorial works or performances for educational purposes of educational institutions
191. Use of broadcasts or cable programmes for educational purposes
192. Copying for course of instruction in making of film or sound-track
193. Things done for purposes of examination
194. Inclusion of authorial work in collections for use by educational institutions
195. Using work or recording of performance available on Internet for educational purposes
196. Performances by students or staff of educational institution, etc.

Division 4 — Persons with Print Disabilities

197. Material to which this Division applies
198. Definition: what is an accessible format
199. Definition: what is an accessible format copy
200. Definition: what is a new copy of an accessible format copy
201. Interpretation: what does it mean to make available an accessible format copy to persons with print disabilities or a foreign institution
202. Making, distributing or making available accessible format copies for Singapore residents with print disabilities
203. Making or making available accessible format copies for foreign institutions or non-resident persons with print disabilities
204. Receiving, importing or distributing accessible format copies from foreign institutions
205. Making of accessible format copy by person with print disabilities for personal use
206. Copyright not to vest by virtue of making accessible format copy for persons with print disabilities

Division 5 — Persons with Intellectual Disabilities

- 207. Copying of authorial works by institution aiding persons with intellectual disabilities
- 208. Copyright not to vest by virtue of making copy for aiding persons with intellectual disabilities
- 209. Copyright owner's right to license not affected

*Division 6 — Public Collections:
Galleries, Libraries, Archives and Museums*

- 210. Definition: what is an article in a periodical publication
- 211. Public use and enjoyment — copying for public exhibition
- 212. Public use and enjoyment — publicising public exhibition
- 213. Public use and enjoyment — performing for public exhibition
- 214. Public use and enjoyment — making collection available online within premises of public collection
- 215. Research and study — copying and communicating authorial works or recordings of performances for users of public collections
- 216. Research and study — copying originals for use on premises of public collection
- 217. Research and study — copying or communicating unpublished theses in university libraries or archives
- 218. Research, study and publication — copying or communicating unpublished old material in public collections
- 219. Publication — publishing works that include unpublished authorial works in public collections
- 220. Publication — communicating, performing, etc., work published under section 219
- 221. Preservation and replacement — making copies of certain works and recordings of performances in public collection
- 222. Administration — making copies of certain works and recordings of performances in public collection
- 223. Supplying copies of published literary, dramatic or musical works or articles between libraries and archives
- 224. Protection of libraries and archives when infringing copies made on machines installed by them
- 225. Copying online material for National Library Board collection

Division 7 — Use of Computer Programs

- 226. Making back-up copy of computer program
- 227. Copying computer program or electronic compilation when essential for use
- 228. Decompilation of computer program by lawful user
- 229. Observing, studying and testing of computer program by lawful user
- 230. Copying or adapting of computer program by lawful users
- 231. Who is a lawful user

Division 8 — Computational data analysis

- 232. Definition: what is computational data analysis
- 233. Making reproductions or copies for computational data analysis

Division 9 — Communication of Sound Recordings and Recordings of Protected Performances

- 234. Definition: what is an interactive service
- 235. Communication by analogue broadcast
- 236. Communication by non-interactive digital broadcast
- 237. Communication by other analogue or non-interactive digital transmission

Division 10 — Films

- 238. Films depicting historical events
- 239. Using record of sounds in films

Division 11 — Broadcasting, Cable Programmes, and Simulcasting

- 240. Reproducing literary, dramatic and musical works for broadcasting
- 241. Reproducing artistic works for television broadcasting or cable programmes
- 242. Making copies of sound recordings or recordings of performances for broadcasting
- 243. Checking whether broadcast of sound recording or of recording of performance is lawful
- 244. Reproducing literary, dramatic or musical work for simulcasting
- 245. Copying sound recording, recording of performance, or film for simulcasting

- 246. Filming or recording broadcasts or cable programmes for private and domestic use
- 247. Reception of broadcasts or cable programmes
- 248. Deemed copyright licences when receiving or transmitting broadcasts or cable programmes

Division 12 — Making Musical Records

- 249. Interpretation and scope of this Division
- 250. Conditions for making musical records
- 251. Conditions for including literary or dramatic work in musical record
- 252. Regulations and inquiry on amount of royalties
- 253. Regulations on other matters

Division 13 — Artistic Works

- 254. Buildings and certain artistic works in public places
- 255. Incidental inclusion in film, television broadcast or cable programme
- 256. Reproduction of artistic work in different dimensions
- 257. Reproduction of part of work in later work
- 258. Reconstruction of buildings

Division 14 — Artistic Works that have Corresponding Designs or are Industrially Applied

- 259. Interpretation of this Division
- 260. Purpose of this Division
- 261. Artistic work with corresponding design that is or was registered under Registered Designs Act 2000
- 262. Modification of section 261 if registration is false
- 263. Artistic work with industrially-applied corresponding design that could have been registered under Registered Designs Act 2000
- 264. Artistic works that have been industrially applied

Division 15 — Material in Public Registers and Public Material

- 265. Definition: what is a public register
- 266. Copying and communicating material in public registers
- 267. Copying or reproducing factual information in literary or artistic works in public registers

- 268. Definition: what is public material
- 269. Copying and communicating public material
- 270. Copying or reproducing factual information in public literary or artistic works

Division 16 — Acts for Service of Government

- 271. Definition: what is a public act
- 272. Public act is permitted use
- 273. Terms for doing public act
- 274. Public act does not amount to publication
- 275. Protection of purchaser in sale in the course of public act
- 276. Modification when exclusive copyright licence in force

Division 17 — Judicial Proceedings and Legal Advice

- 277. Acts done for judicial proceedings
- 278. Acts done for seeking legal advice

Division 18 — Miscellaneous

- 279. Temporary copies or reproductions made in the course of communication
- 280. Temporary copies or reproductions made in user caching
- 281. Transfer of electronic copy of material
- 282. Reproductions of published editions of authorial work in course of permitted use of authorial work
- 283. Reading or recitation of literary or dramatic work
- 284. Religious performances of literary, dramatic or musical work
- 285. Making recording of performance in mistaken belief of authorisation

Division 19 — Notation of copies

- 286. When and how should a copy be notated
- 287. Presumptions relating to notated copy
- 288. Making false or misleading notation

PART 6

REMEDIES FOR AND
ENFORCEMENT ACTIONS AGAINST
RIGHTS INFRINGEMENTS

Division 1 — Remedies for Rights Infringements

- 289. Interpretation of this Division
- 290. Remedies available
- 291. No damages where rights infringed unknowingly
- 292. Measure of damages
- 293. Measure of statutory damages
- 294. Order to deliver up infringing copies, etc.
- 295. Order to dispose of infringing copies, etc.
- 296. Procedure for disposal order
- 297. Equitable remuneration for causing sounds embodied in commercially published sound recording to be heard in public

*Division 2 — Remedies Against
Network Service Providers*

Subdivision (1) — Preliminary

- 298. Interpretation of this Division
- 299. Provisions relating to rights infringement not affected

*Subdivision (2) — Restriction of Remedies
Against Rights Infringements in Course of
Providing Network Services*

- 300. Restriction of remedies if conditions satisfied
- 301. Conditions relating to infringement by transmission, routing and providing connections
- 302. Conditions relating to infringement by system caching
- 303. Conditions relating to infringement by storage
- 304. Conditions relating to infringement by locating information
- 305. Conditions do not require monitoring of network services, etc.
- 306. Evidence of compliance with conditions
- 307. Protection against liability for removing electronic copy under section 302, 303 or 304
- 308. Requirements relating to take-down or restoration notices
- 309. Making false statements in take-down or restoration notice

*Subdivision (3) — Disabling Access to
Flagrantly Infringing Online Locations*

- 310. Access disabling order
- 311. Procedure for application

312. Variation and revocation of order

313. Application of presumptions

Division 3 — Border Enforcement Measures Against Infringing Goods

Subdivision (1) — Preliminary

314. Interpretation of this Division

315. Infringement actions to which this Division applies

316. What are infringing goods

Subdivision (2) — Seizure on Request

317. Request to seize

318. Duration of request

319. Seizure on request

320. Notice of seizure and to bring action

Subdivision (3) — Seizure without request

321. Inspection and seizure without request

322. Notice of seizure

323. Request to continue detention

324. Release of seized goods if request not made

325. Notice to bring action if request made

Subdivision (4) — Infringement Action by Requestor After Seizure

326. Definition of requestor

327. Time for requestor to bring action (“detention period”)

328. Failure to bring action — release of seized goods

329. Failure to bring action — compensation for seizure

330. Infringement action — orders in relation to seized goods

331. Infringement action — release of seized goods if no contrary order made

332. Infringement action — compensation if action dismissed, etc.

333. Infringement action — further provisions

Subdivision (5) — Supplementary Provisions on Seizure

334. Security for request to seize or continue detention

335. Direction for secure storage

336. Inspecting, or removing sample of, seized goods

- 337. Power of customs officer, etc., to require information after seizure
- 338. Requestor may ask for identity, etc., of person connected with seized goods
- 339. Notice of release
- 340. Forfeiture by consent
- 341. Release by consent
- 342. Release for non-compliance with directions, etc.
- 343. Unsecured expenses of Director-General

Subdivision (6) — Powers to Search for Seizable Infringing Goods

- 344. Interpretation of this Subdivision
- 345. Powers to search vessels, aircrafts and vehicles
- 346. Examination and search of packages, etc.
- 347. Removal of packages, etc., to police station, etc., for examination and search
- 348. Search of travellers and baggage
- 349. Powers of customs officers to enter certain premises
- 350. Obstruction of officers

Subdivision (7) — Administration of this Division

- 351. Appointment of persons to exercise powers and duties of customs officers
- 352. Delegation of Director-General's powers
- 353. Fees

PART 7

ADDITIONAL RIGHTS RELATING TO COPYRIGHT WORKS AND PROTECTED PERFORMANCES

Division 1 — Author's Moral Rights

- 354. Interpretation of this Division
- 355. Application
- 356. Right to be identified — circumstances
- 357. Right to be identified — manner of identification
- 358. Right to be identified — exception where author not known
- 359. Right to be identified — exception for certain authorial works
- 360. Right to be identified — exception for certain permitted uses

- 361. Right to be identified — transitional exceptions
- 362. Right against false identification
- 363. Right not to be falsely identified as author of reproduction of artistic work
- 364. Right not to have altered copy represented as unaltered
- 365. Rights not infringed by acts done with consent
- 366. Action for infringement
- 367. Remedies
- 368. Rights not assignable
- 369. Devolution on death
- 370. Other rights not affected

Division 2 — Performer's Moral Rights

- 371. Interpretation of this Division
- 372. Application and duration
- 373. Right to be identified — circumstances
- 374. Right to be identified — manner of identification
- 375. Right to be identified — exception where performer not known
- 376. Right to be identified — exception for certain performances
- 377. Right to be identified — exception for certain permitted uses
- 378. Right to be identified — transitional exception
- 379. Right against false identification
- 380. Right not to have altered recording represented as unaltered
- 381. Rights not infringed by acts done with consent
- 382. Action for infringement
- 383. Remedies
- 384. Rights not assignable
- 385. Devolution on death
- 386. Other rights not affected

Division 3 — Protection of Electronic Rights Management Information

- 387. Interpretation of this Division
- 388. What is rights management information
- 389. Application and duration

- 390. Prohibition on removing or altering rights management information
- 391. Prohibition on dealing with altered rights management information
- 392. Prohibition on dealing with protected copies after rights management information altered or removed
- 393. Action for wrong
- 394. Limitation of action
- 395. Remedies
- 396. Offence
- 397. Other rights not affected

Division 4 — Protection of Technological Measures

- 398. Interpretation of this Division
- 399. What are access control measures and protection measures
- 400. Application
- 401. Prohibition on circumventing access control measure
- 402. Prohibition on dealing in circumventing devices
- 403. Prohibition on dealing in circumventing services
- 404. Exception — access by non-profit library, etc., for purpose of acquisition
- 405. Exception — protection of personal information of network user
- 406. Exception — achieving interoperability between computer programs
- 407. Exception — research on encryption technology
- 408. Exception — preventing minor access to online material
- 409. Exception — testing of security flaws, etc., of computer
- 410. Exception — law enforcement, national defence, etc.
- 411. Exception — prescribed exceptions
- 412. Action for prohibited circumvention or dealing
- 413. Limitation of action
- 414. Remedies
- 415. Offences
- 416. Other rights not affected

PART 8
OFFENCES

Division 1 — Offences with commercial element

- 417. Commercial dealings, etc., in infringing copies
- 418. Wilful infringement for commercial advantage
- 419. Making or possessing article capable of making infringing copies
- 420. Punishment

Division 2 — Offences without commercial element

- 421. Distribution, etc., of infringing copies
- 422. Wilful and significant rights infringement
- 423. Causing certain works and performances to be performed, seen or heard in public for private profit
- 424. Advertisement for supply of infringing copies of works
- 425. Punishment

Division 3 — Other provisions

- 426. Presumption where person possesses 5 or more infringing copies
- 427. Proof of existence of copyright and protection of performance, etc., by affidavit

PART 9

REGULATION OF COLLECTIVE MANAGEMENT
ORGANISATIONS

- 428. [Placeholder]

PART 10

COPYRIGHT TRIBUNALS

- 429. [Placeholder]

PART 11

MISCELLANEOUS

- 430. Groundless threats of legal proceedings
- 431. Offences by bodies corporate, etc.
- 432. Jurisdiction of courts
- 433. Application of Government Proceedings Act 1956

- 434. Immunity of officers and employees of Government and Authority
- 435. Regulations
- 436. Repeal

PART 12
TRANSITIONAL

- 437. [Placeholder]
-

A BILL

i n t i t u l e d

An Act relating to copyright and performers' rights.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART 1

PRELIMINARY

Short title and commencement

1. This Act is the Copyright Act 2021 and comes into operation on
5 a date that the Minister appoints by notification in the *Gazette*.

Application to things existing before commencement dates [2]

2.—(1) This Act applies to things existing on 10 April 1987 as it
applies to things coming into existence after that date.

(2) This Act applies to things existing on the date or dates on which
10 any provision of this Act comes into operation as it applies to things
coming into existence after that date or those dates.

(3) This section does not apply where this Act expressly provides
otherwise.

Extension of Act to reciprocating countries [184, 256]

15 3.—(1) Subject to subsection (2), regulations may prescribe that —

(a) a country is a reciprocating country; and

(b) this Act is extended so as to apply in relation to the country
or its nationals —

(i) generally or for specified classes of cases; and

20 (ii) with or without modifications or exceptions.

(2) A country may be prescribed as a reciprocating country only
if —

(a) in relation to works protected by copyright under this Act —

25 (i) the country and Singapore are both parties to a treaty,
convention or other international agreement relating
to copyright; or

(ii) the Minister is satisfied that those works are or will be
adequately protected under the laws of the country;
and

(b) in relation to the performances protected under this Act —

(i) the country and Singapore are both parties to a treaty, convention or other international agreement relating to the protection of performers; or

5 (ii) the Minister is satisfied that those performances are or will be adequately protected under the laws of the country.

(3) In this section and section 4, “national”, in relation to a country, means —

10 (a) a national, citizen or resident of the country; or

(b) a body incorporated under the law of the country.

Exclusion of non-reciprocating countries from Act [186; 257]

4.—(1) Subject to subsection (2), regulations may prescribe that —

(a) a country is a non-reciprocating country; and

15 (b) either —

(i) this Act does not apply in relation to the country or its nationals, whether generally or for specified classes of cases; or

20 (ii) the application of this Act in relation to the country or its nationals is subject to modifications or exceptions.

(2) A country may be prescribed as a non-reciprocating country only if the Minister considers that the law of the country does not give adequate protection to —

25 (a) works (or any class of works) protected by copyright under this Act; or

(b) performances (or any class of performances) protected under this Act.

30 (3) Without limiting subsection (2), the inadequacy of protection may relate to the nature of the work or performance, or the nationality, citizenship or country of residence of the person who made the work or gave the performance.

(4) In making regulations under subsection (1)(b), the Minister must have regard to the nature and extent of the inadequacy mentioned in subsection (2).

5 (5) Regulations under subsection (1) must not deprive a person of any rights acquired under this Act before the date on which the regulations are published in the *Gazette*.

(6) In this section, “work” does not include a published edition of an authorial work.

Savings for other laws [5, 6]

10 **5.**—(1) Unless it expressly provides otherwise, this Act does not affect any right or privilege of the Government or any other person under any other written law.

(2) This Act does not affect the operation of the law relating to breaches of trust or confidence.

Act to bind Government [3]

15 **6.**—(1) This Act binds the Government, except where it expressly provides otherwise.

(2) The Government is not liable to be prosecuted for an offence under this Act.

20 **PART 2**

INTERPRETATION

Division 1 — General

General interpretation [7(1), 12]

25 **7.**—(1) In this Act, unless the context otherwise requires —
 “1987 Act” means the Copyright Act 1987, and includes all amendments to that Act that are in force on the date on which that Act was repealed by this Act;

“adaptation” —

(a) in relation to a literary or dramatic work, has the meaning given by section 17; and

(b) in relation to a musical work, has the meaning given by section 18;

5 “archive” has the meaning given by section 85;

“article” includes a reproduction or copy, in electronic form, of a work;

“artistic work” has the meaning given by section 19(1);

“authorial work” has the meaning given by section 8;

10 “broadcast” has the meaning given by section 28;

“broadcasting licence” and “broadcasting licensee” have the meanings given by section 2(1) of the Broadcasting Act 1994;

“building” has the meaning given by section 19(2);

“cable programme” has the meaning given by section 36;

15 “cable programme service” has the meaning given by section 38;

“commercial dealing” has the meaning given by section 68;

“commercial rental arrangement”, in relation to a computer program or a sound recording, has the meaning given by section 69;

20 “communicate” has the meaning given by section 58;

“computer program” has the meaning given by section 12(3);

“copyright work” means a work in which copyright exists;

“construction” includes erection and “reconstruction” has a corresponding meaning;

25 “copy”, has the meaning given by the provisions of Part 2, Division 3, Subdivision (2);

“Copyright Act 1911” means the Copyright Act 1911 of the United Kingdom insofar as it has effect as part of the law of Singapore;

- “Copyright Tribunal” or “Tribunal” means a Copyright Tribunal established under this Act;
- “deal commercially” has the meaning given by section 68;
- “dramatic work” has the meaning given by section 14;
- 5 “drawing” has the meaning given by section 19(2);
- “educational institution” has the meaning given by section 76;
- “electronic” means actuated by electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy;
- 10 “electronic copy”, in relation to a work, means a copy of the work in an electronic form;
- “engraving” has the meaning given by section 19(2);
- “exclusive licence” and “exclusive licensee” have the meanings given by section 95;
- 15 “for-profit” means operated or conducted, directly or indirectly, for profit;
- “film” has the meaning given by section 25;
- “foreign institution aiding persons with print disabilities” has the meaning given by section 81;
- 20 “future copyright” has the meaning given by section 131(3);
- “in electronic form” means in a form usable only by electronic means;
- “infringing copy” has the meaning given by section 90;
- “institution” includes an educational institution;
- 25 “institution aiding persons with intellectual disabilities” has the meaning given by section 82;
- “institution aiding persons with print disabilities” has the meaning given by section 79;
- 30 “IPOS” means the Intellectual Property Office of Singapore established by the Intellectual Property Office of Singapore Act;

“National Library Board” means the National Library Board established by the National Library Board Act 1955;

“non-profit” means not operated or conducted, directly or indirectly, for profit;

5 “organisation” means an organisation or association or persons, whether corporate or unincorporate;

“periodical publication” means an issue of a periodical publication and “same periodical publication” has a corresponding meaning;

10 “person with a print disability” has the meaning given by section 78;

“photograph” has the meaning given by section 19(2);

“premises” includes any land, building structure and conveyance;

15 “prescribed international organisation” has the meaning given by section 74;

“prospective owner”, in relation to a future copyright, means —

(a) in relation to a future copyright that is not assigned — the person who would be first owner of the copyright under the provisions of this Act when the copyright comes into existence; and

20

(b) in relation to a future copyright that is assigned — the assignee in whom the copyright will vest under the assignment when the copyright comes into existence;

25 “protected performance” means a performance that is protected under Part 4;

“protection period”, in relation to a performance, means the period for which the performance is protected under section 167;

30 “provisions of this Act” do not include regulations made under this Act;

“public body” has the meaning given by section 2(1) of the Public Sector (Governance) Act 2018 (Act 5 of 2018);

- “public collection” has the meaning given by section 84;
- “qualifying performance” has the meaning given by section 39;
- “receiving apparatus” means any device or equipment that, if operated alone or together with any other device or equipment, enables people to see or hear a work that is communicated;
- “record” means a disc, tape, paper or other device in which sounds are embodied;
- “recording”, in relation to a protected performance, has the meaning given by section 51;
- “re-transmission”, in relation to a broadcast, has the meaning given by section 61;
- “sculpture” has the meaning given by section 19(2);
- “sound broadcast” has the meaning given by section 31;
- “sound recording” has the meaning given by section 21;
- “sound-track”, in relation to a film, has the meaning given by section 25(2);
- “sounds”, in relation to a film, has the meaning given by section 25(2);
- “television broadcast” has the meaning given by section 30;
- “visual images”, in relation to a film, has the meaning given by section 25(2);
- “wireless telegraphy” means the emitting or receiving, otherwise than over a path that is provided by a material substance, of electro-magnetic energy;
- “work” means —
- (a) an authorial work;
 - (b) a published edition of an authorial work;
 - (c) a sound recording;
 - (d) a film;
 - (e) a television or sound broadcast; or

(f) a cable programme;

“work of joint authorship” has the meaning given by section 9;

(2) Unless the context otherwise requires, the provisions of this Part apply to and for the purposes of this Act.

5

Division 2 — Works and Performances

Subdivision (1) — Authorial Works in General

What is an authorial work [7(1)]

8. An “authorial work” is a literary, dramatic, musical or artistic work.

10 **What is a work of joint authorship [7(1)]**

9. A “work of joint authorship” is an authorial work —

(a) that is produced by the collaboration of 2 or more authors;
and

(b) in which each author’s contribution is not separate from the
15 other author’s or authors’.

Reference to author includes all joint authors [75]

10. Unless expressly otherwise provided, a reference in this Act to an author of an authorial work is, in relation to a work of joint authorship, a reference to all the authors of the work.

20 **What is an authorial work with an identified author [14(1), 78(4)]**

11.—(1) An authorial work has an identified author if —

(a) the identity of the author is generally known or can reasonably be ascertained; or

(b) in the case of a work of joint authorship — the identity of at
25 least one of the authors is generally known or can reasonably be ascertained.

(2) For the purposes of subsection (1) —

- (a) the identity of the author of an authorial work is deemed to be generally known if —
- (i) the work is published; and
 - (ii) the true name of the author, or a name by which the author is generally known, is specified in the published work as the author; and
- (b) the identity of an author is not generally known just because the pseudonym of the author is generally known.

Subdivision (2) — Literary, Dramatic and Musical Works

10 **Literary work includes computer programs and compilations**
[7(1); 7A(1), (3)]

12.—(1) A “literary work” includes —

- (a) a compilation in any form; and
- (b) a computer program.

15 (2) A “compilation” is a compilation or table —

(a) consisting —

(i) wholly or partly of the following material:

- (A) an authorial work, including a computer program;
- (B) a sound recording;
- (C) a film;
- (D) a published edition of an authorial work;
- (E) a television or sound broadcast;
- (F) a cable programme; or
- (G) a recording of a protected performance; and

(ii) of data other than the material mentioned in sub-paragraph (i); and

(b) that is an intellectual creation because of the selection or arrangement of its contents.

(3) A “computer program” is an expression (in any language, code or notation) of a set of instructions (whether with or without related information) intended to —

- 5 (a) directly cause a device with information processing capabilities to perform a particular function; or
 - (b) cause a device with information processing capabilities to perform a particular function after —
 - (i) converting the instructions into another language, code or notation; or
 - 10 (ii) reproducing the instructions in a different material form,
- or both.

Subject-matter of copyright in compilations [7A(2)]

13. To avoid doubt, any copyright in a compilation —

- 15 (a) is limited to the selection or arrangement of its contents that constitutes an intellectual creation; and
- (b) is in addition to, and independent of, any copyright in its contents and any other right under Part 4 (protection of performances) in relation to its contents.

20 What does a dramatic work include [7(1)]

14. A “dramatic work” —

- (a) includes a choreographic or other dumb show; and
- (b) includes a scenario or script for a film, but does not include a film.

25 When is a literary, dramatic or musical work made [16(1), (2)]

15.—(1) A literary, dramatic or musical work is made at the time when, or over the period during which, the work was first reduced to writing or some other material form.

- 30 (2) A literary, dramatic or musical work in the form of sounds embodied in an article or thing is considered —

- (a) to have been reduced to a material form; and
- (b) to have been reduced to a material form at the time when those sounds were embodied in that article or thing.

*Subdivision (3) — Adaptations of
Literary, Dramatic or Musical Works*

5

**Adaptation of work includes adaptation of substantial part
adaptation of whole [10(1)(b)]**

16. A reference to an adaptation of a work includes a reference to an adaptation of a substantial part of the work.

10 What is an adaptation of a literary or dramatic work [7(1)]

17. An adaptation of a literary work is —

- (a) in relation to a literary work in a non-dramatic form — a version of the work (whether in its original language or in a different language) in a dramatic form;
- 15 (b) in relation to a literary work in a dramatic form — a version of the work (whether in its original language or in a different language) in a non-dramatic form;
- (c) in relation to a literary work being a computer program — a version of the work (whether or not in the language, code or
20 notation in which the work was originally expressed) not being a reproduction of the work; and
- (d) in relation to any literary work (whether in a non-dramatic form or dramatic form) —
 - (i) a translation of the work; or
 - 25 (ii) a version of the work in which a story or action is conveyed solely or principally by means of pictures.

What is an adaptation of a musical work [7(1)]

18. An adaptation of a musical work is an arrangement or a transcription of the work.

Subdivision (4) — Artistic Works

What is an artistic work [7(1)]

19.—(1) An “artistic work” —

(a) means any of the following:

- 5 (i) a painting, a sculpture, a drawing, an engraving or a photograph, whether the work is of artistic quality or not;
- (ii) a building or model of a building, whether the building or model is of artistic quality or not;
- 10 (iii) a work of artistic craftsmanship to which neither paragraph (a) nor (b) applies; but
- (b) does not include a layout-design or an integrated circuit as defined in section 2(1) of the Layout-Designs of Integrated Circuits Act 1999.

15 (2) In subsection (1) —

“building” includes a structure of any kind;

“drawing” includes any diagram, map, chart or plan;

“engraving” includes an etching, a lithograph, a product of photogravure, a woodcut, a print or any other similar work, but not a photograph;

20 “photograph” is a product of photography or of a process similar to photography, and —

(a) includes a product of xerography; but

25 (b) does not include any article or thing in which visual images forming part of a film have been embodied;

“sculpture” includes a cast or model made for purposes of sculpture.

Who is the author of a photograph [7(1)]

30 **20.** The author of a photograph is the person who took the photograph.

Subdivision (5) — Sound Recordings

What is a sound recording [7(1) and 18(1)]

21.—(1) A “sound recording” is all the sounds embodied in a record, but does not include the sounds of a film.

5 (2) A “record”, in relation to a sound recording, means a disc, tape, paper or other device in which sounds are embodied.

When is a sound recording made [16(3)(a)]

22. A sound recording is made at the time when the first record embodying the recording was produced.

10 **Who is the maker of a sound recording [16(3)(b)]**

23. The maker of a sound recording is the person who owns the first record embodying the recording at the time the recording was produced.

Application to sound recordings of performances [new]

15 **24.** To avoid doubt, this Subdivision applies to sound recordings of performances as it applies to other sound recordings.

Subdivision (6) — Films

What is a film; what are the visual images, sounds and sound-track of the film [7(1)]

20 **25.**—(1) A “film”—

(a) is all the visual images embodied in a thing in a way that —

(i) the images can be shown as a moving picture by using that thing; or

25 (ii) that thing can be used to embody the images in another thing, and the images can be shown as a moving picture by using that other thing; and

(b) includes all the sounds embodied in —

(i) that thing or any part of that thing; or

(ii) any disc, tape or other device that is made available by the maker of the film to be used together with that thing.

(2) In relation to a film —

5 (a) “visual images” are the visual images mentioned in subsection (1)(a);

(b) “sounds” are the sounds mentioned in subsection (1)(b); and

(c) a “sound-track” is —

10 (i) the thing or the part of the thing mentioned in subsection (1)(b)(i); or

(ii) the disc, tape or other device mentioned in subsection (1)(b)(ii).

(3) In this section, “thing” includes an article.

What is the making of a film [16(4)(a)]

15 **26.** The making of a film is the doing of the things needed to produce the first copy of the film.

Who is the maker of a film [16(4)(b)]

27. The maker of a film is the person who undertook the arrangements needed to make the film.

20 *Subdivision (7) — Television Broadcasts and Sound Broadcasts*

What does broadcast mean [7(1)]

28. “Broadcast” means to broadcast by wireless telegraphy.

What is broadcasting [7(1) and 20(1)]

29. “Broadcasting” means television or sound broadcasting.

25 **What is a television broadcast [7(1)]**

30. A “television broadcast” is the visual images that are broadcast by way of television, together with any sounds broadcast for reception along with those images.

What is a sound broadcast [7(1)]

31. A “sound broadcast” is any sound broadcast except a sound broadcast that is part of a television broadcast.

Who is the maker of a television or sound broadcast [16(5)]

- 5 32. A television broadcast or sound broadcast is made by —
- (a) the person who broadcasts the relevant visual images or sounds or both; and
 - (b) in the case of direct broadcasting by satellite — the person who transmits the relevant visual images or sounds or both to the satellite transponder.
- 10

Where is a television or sound broadcast made [16(5)]

33. A television broadcast or sound broadcast is made at —
- (a) the place from which the relevant visual images or sounds or both are broadcast; and
 - (b) in the case of direct broadcasting by satellite — the place from which the relevant visual images or sounds or both are transmitted to the satellite transponder.
- 15

When is a television or sound broadcast made [16(5)]

34. A television broadcast or sound broadcast is made at —
- (a) the time when the relevant visual images or sounds or both are broadcast; and
 - (b) in the case of direct broadcasting by satellite — the time when the relevant visual images or sounds or both are transmitted to the satellite transponder.
- 20

When is a record embodying a sound recording, or a copy of a film, used in a broadcast [20(3)]

- 35.—(1) This section applies where —
- (a) a record embodying a sound recording, or a copy of a film, is used for the purpose of making a broadcast (called in this section the primary broadcast); and
- 30

(b) a person makes a further broadcast (called in this section the secondary broadcast) by receiving and simultaneously further transmitting —

- 5 (i) the transmission by which the primary broadcast is made; or
- (ii) a transmission that is —
 - (A) made otherwise than by broadcasting; and
 - (B) made simultaneously with the transmission by which the primary broadcast is made.

10 (2) The person who made the secondary broadcast is deemed not to have used the record or copy for the purpose of making that broadcast.

Subdivision (8) — Cable Programmes

What is a cable programme [7(1)]

15 **36.** A “cable programme” is a programme (including any item) that is included in a cable programme service.

What is inclusion in a cable programme service [21(1)]

37. A programme is included in a cable programme service only if it is included in the service by the person providing the service.

20 **What is a cable programme service [7(1), (5); 21(2)]**

38.—(1) A “cable programme service” —

- (a) is a service that consists wholly or mainly of the sending of sounds or visual images (or both) by any person —
 - 25 (i) by means of a telecommunication system (whether run by that person or any other person); and
 - (ii) for reception —
 - (A) by any means other than wireless telegraphy, at 2 or more places in Singapore (either simultaneously, or at different times in response

to requests made by different users of the service); or

(B) by any means, at a place in Singapore for the purpose of being played or shown there to members of the public or any group of persons; but

(b) does not include any service under paragraph (a) if and to the extent that that service is provided for a person providing another service under paragraph (a).

(2) For the purposes of subsection (1) —

(a) “telecommunication system” means a system that uses electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy to convey —

(i) speech, music and other sounds;

(ii) visual images;

(iii) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or

(iv) signals serving for the actuation or control of machinery or apparatus; and

(b) telecommunication apparatus that is situated in Singapore and —

(i) is connected to but not comprised in a telecommunication system; or

(ii) is connected to and comprised in a telecommunication system which extends beyond Singapore,

is regarded as a telecommunication system, and any person who controls the apparatus is regarded as running the system.

(3) In subsection (2)(b), “telecommunication apparatus” means apparatus constructed or adapted for use in transmitting or receiving —

- (a) speech, music and other sounds;
 - (b) visual images;
 - (c) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or
 - (d) signals serving for the actuation or control of machinery or apparatus,
- that are to be or have been conveyed by means of a telecommunication system.

Subdivision (9) — Qualifying Performances

What is a qualifying performance [246(1), (2); 23(1); 251(1)]

39.—(1) A “qualifying performance” is —

- (a) any of the following performances:
 - (i) a performance (including an improvisation and a performance that uses puppets) of a dramatic work or part of the dramatic work;
 - (ii) a performance (including an improvisation) of a musical work or part of the musical work;
 - (iii) the reading, recitation or delivery of a literary work or part of the literary work, or the recitation or delivery of an improvised literary work;
 - (iv) a performance of a dance;
 - (v) a performance of a circus act or a variety act or any similar presentation or show; but
- (b) not any of the following performances:
 - (i) the performance of a musical work by the students of staff of an educational institution (whether on the premises of the institution or elsewhere) in the presence of an audience and in the course of the activities of the institution;

- (ii) a reading, recital or delivery of any item of news and information;
 - (iii) a performance of a sporting activity;
 - (iv) a participation in a performance as a member of an audience;
 - (v) a performance in a National Day Parade in Singapore;
 - (vi) any prescribed performance.
- (2) For the purposes of subsection (1), it does not matter whether a performance is given —
- (a) before, on or after 16 April 1998; or
 - (b) in the presence of an audience or otherwise.

Division 3 — Acts relating to Works and Performances

Subdivision (1) — General

Acts done in relation to work, etc., includes act done in relation to substantial part of work [10(1)(a), (2)]

40.—(1) A reference in this Act to doing an act in relation to a work includes a reference to doing that act in relation to a substantial part of that work.

(2) This section does not affect the interpretation of any reference in sections 101, 102, 127, 136 to the publication, or absence of publication, of a work.

Acts done in relation to performance, etc., includes act done in relation to substantial part of performance [246(3)(a), (b)]

41.—(1) A reference in this Act to doing an act in relation to a performance includes a reference to doing that act in relation to a substantial part of the performance.

(2) A reference to doing an act in relation to a recording of a performance includes a reference to doing that act in relation to a recording of a substantial part of the performance.

Subdivision (2) — Making Copies and Reproductions

Reproduction or copy of work includes reproduction or copy of substantial part [10(1)(b), (2)]

5 **42.** A reference to a reproduction or copy of a work includes a reference to a reproduction or copy of a substantial part of the work.

Reproducing work by making temporary or incidental copy [15(1A), (2) and 81(2)]

10 **43.—**(1) Reproducing a work includes making a copy of the work (or, in the case of an authorial work, an adaptation of the work) that is temporary or is incidental to some other use of the work (or adaptation).

(2) The copy is a reproduction of the work.

15 **Reduction of authorial work or adaptation to material form, or reproducing authorial work or adaptation, by storage in computer or on any other medium [17]**

44.—(1) Reducing an authorial work or an adaptation of an authorial work to a material form includes storing the work or adaptation —

(a) in a computer;

20 (b) on any medium by electronic means; or

(c) on any other medium from which the work or adaptation, or a substantial part of the work or adaptation, can be directly reproduced.

25 (2) Reproducing an authorial work, or an adaptation of an authorial work, in a material form, includes storing the work or adaptation —

(a) in a computer;

(b) on any medium by electronic means; or

30 (c) on any other medium from which the work or adaptation, or a substantial part of the work or adaptation, can be directly reproduced.

Reproducing authorial work or adaptation as film or sound recording, or by conversion into or from machine-readable forms [15(1), (1B), (2)]

45.—(1) Reproducing an authorial work includes —

- 5 (a) reproducing the work, or an adaptation of the work, in the form of a film;
- (b) in the case of a literary, dramatic or musical work — reproducing the work, or an adaptation of the work, in the form of a sound recording; and
- 10 (c) converting the work or an adaptation of the work (or any reproduction of the work or adaptation in the form of a film or sound recording) into or from a digital or other electronic machine-readable form.

(2) Reproductions of an authorial work include —

- 15 (a) a copy of the film mentioned in subsection (1)(a);
- (b) a record that embodies the sound recording mentioned in subsection (1)(b); and
- (c) an article that embodies work, adaptation or reproduction as converted in the manner described in subsection (1)(c).

20 **Reproducing artistic work in different dimensions [15(3) and (4)]**

46.—(1) Reproducing an artistic work —

- (a) if the work is in a 2-dimensional form — includes producing a version of the work in a 3-dimensional form; or
- 25 (b) if the work is in a 3-dimensional form — includes producing a version of the work in a 2-dimensional form.

(2) The versions mentioned in subsection (1) are reproductions of the work.

- (3) This section is subject to sections 241, 254, 255, 256, 257, 258,
- 30 264.

What is a reasonable portion when copying a literary, dramatic or musical work in a published edition [7(2), (2A)]

5 **47.**—(1) In the following cases, a copy of a literary, dramatic or musical work contained in a published edition of the work is taken to contain only a reasonable portion of the work for the purposes of this Act:

(a) where the edition has 10 or more pages —

(i) only 10% or less of the number of pages in the edition are copied in total; or

10 (ii) if the edition is divided into chapters — the pages copied are all from the same chapter;

(b) where the edition is an electronic edition and is not divided into pages —

15 (i) only 10% or less of the total number of bytes in the edition are copied in total;

(ii) only 10% or less of the total number of words in that edition are copied in total;

20 (iii) if it is not practicable to use the total number of words as a measure — only 10% or less of the contents of that edition are copied in total; or

(iv) if the edition is divided into chapters — the parts copied are all from the same chapter.

(2) This section does not limit the meaning of “reasonable portion” in this Act.

25 **What is a copy of a film [7(1)]**

48. A copy of a film is any article or thing in which the visual images or sounds comprising the film are embodied.

What is a film of a television broadcast; what is a copy of such a film [20(4)]

30 **49.**—(1) A film of a television broadcast includes —

(a) a film of any of the visual images comprised in the broadcast;
or

(b) a photograph of any of those images.

5 (2) A copy of a film of a television broadcast includes a copy of a film or photograph mentioned in subsection (1).

What is a copy of a sound recording [7(3)(c)]

50. A copy of a sound recording is a record —

(a) embodying a sound recording or a substantial part of a sound recording; and

10 (b) derived, directly or indirectly, from a record produced upon the making of a sound recording.

What is a recording of a protected performance [246(1)]

15 **51.** A “recording”, in relation to a protected performance, means a sound recording of the performance, and includes a copy of a sound recording of the performance.

Subdivision (3) — Publication of Authorial Works, Sound Recordings and Films

What amounts to publication of an authorial work [24(1)(a), (2) and (3)]

20 **52.—**(1) Subject to this section and section 56, an authorial work is published only if reproductions of the work or an edition of the work has been supplied to the public (whether by sale, over the Internet, or otherwise).

25 (2) The following do not amount to publication of an authorial work:

(a) despite sections 40 and 42, supplying to the public reproductions of a substantial part of the work or of an edition of the work;

(b) the performance of a literary, dramatic or musical work;

- (c) the sale or otherwise supplying to the public of records of a literary, dramatic or musical work;
- (d) the exhibition of an artistic work;
- (e) the construction of a building or a model of a building;
- 5 (f) the sale or otherwise supplying to the public of photographs or engravings of a building, a model of a building or a sculpture;
- (g) causing the visual images or sounds of a film to be seen or heard in public.

10 **What amounts to publication of an edition of an authorial work [24(1)(a) and (2)]**

15 **53.**—(1) Subject to this section and section 56, an edition of an authorial work is published only if reproductions of the edition have been supplied to the public (whether by sale, over the Internet, or otherwise).

(2) Section 40 does not apply to subsection (1).

What amounts to publication of a sound recording (including a recording of a protected performance) [24(1)(c)]

20 **54.** Subject to section 56, a sound recording (including a recording of a protected performance) is published only if any of the following have been supplied to the public (whether by sale, over the Internet, or otherwise):

- (a) copies of the recording (or of part of the recording);
- (b) records embodying the recording or a part of the recording.

25 **What amounts to publication of a film [24(1)(b)]**

55. Subject to section 56, a film is published only if copies of the film have been —

- (a) supplied to the public (whether by sale, over the Internet, or otherwise);
- 30 (b) let on hire to the public, or

(c) offered or exposed, for sale or hire, to the public.

Matters to be considered or disregarded for publication, first publication, and publication before death [24(4) to (8)]

5 **56.**—(1) If a publication is merely colourable and is not intended to satisfy the reasonable requirements of the public —

(a) it must be disregarded for the purposes of this Act; but

(b) it may be considered to the extent that it may be an infringement of copyright or of a moral right under Division 1 or 2 of Part 7.

10 (2) A publication in Singapore or elsewhere is still the first publication if the publication and every earlier publication took place within a period of 30 days.

(3) A publication or other act that is unauthorised must be disregarded in determining —

15 (a) whether a work has been published;

(b) whether a publication of a work was the first publication of that work; or

(c) whether a work was published or otherwise dealt with in the lifetime of a person.

20 (4) Subject to section 49 an act (including publication) is unauthorised for the purposes of subsection (3) only if —

(a) there is copyright in the work and the act was neither done by the owner of the copyright nor with the licence of the owner; or

25 (b) there is no copyright in the work and the act concerned was neither done by, nor with the licence of —

(i) the author of the work, the maker of the sound recording or film, or the publisher of the edition of a work, as the case may be; or

30 (ii) any person lawfully claiming under the author, maker or publisher.

(5) Subsections (3) and (4) do not affect any provision of this Act relating to the acts comprised in a copyright or to acts constituting infringements of copyrights or any of the provisions of Part IX.

Specific acts which do not amount to publication [new]

5 **57.**—(1) The following provisions provide that certain acts in certain circumstances do not amount to publication:

(a) section 214 (making collection available online within premises of public collection);

10 (b) section 216 (copying originals for use on premises of public collection);

(c) section 266 (copying and communicating material in public registers);

(d) section 274 (public act).

15 (2) To avoid doubt, the provisions mentioned in subsection (1) do not limit section 52.

Subdivision (4) — Communication of Works and Performances

What does communicate mean [7(1)]

20 **58.**—(1) “Communicate”, in relation to a work or performance, means to transmit the work or performance by electronic means, and includes —

(a) broadcasting the work or performance;

(b) including the work or performance in a cable programme; and

25 (c) making the work or performance available (on a network or otherwise) in a way that the work or performance may be accessed by any person from a place and at a time chosen by the person.

(2) For the purposes of subsection (1), it does not matter —

30 (a) whether the transmission is over a path or a combination of paths;

(b) whether the paths or paths are provided by a material substance or by wireless means or otherwise; and

(c) whether the work or performance is sent in response to a request.

5 (3) “Communication” has a corresponding meaning;

Who is the maker of a communication [16(6)]

10 **59.** For the purposes of this Act, the person who made a communication other than a broadcast is the person responsible for deciding the content of the communication when the communication is made.

Subdivision (5)— Transmission and Receptions of Broadcasts

What is doing an act by the reception of a broadcast [20(2) and (5)]

15 **60.—**(1) To do an act by the reception of a television or sound broadcast is to do that act by receiving a broadcast from —

(a) the transmission by which the broadcast is made; or

(b) a transmission that is —

(i) made otherwise than by broadcasting; and

20 (ii) made simultaneously with the transmission by which the broadcast is made.

(2) For the purposes of subsection (1), it does not matter whether the broadcast is received directly from the transmission concerned or from a re-transmission made by any person from any place.

(3) In subsection (2), “re-transmission” —

25 (a) means any re-transmission (as defined in section 61), whether over paths provided by a material substance or not; and

30 (b) includes a re-transmission made by making use of any article or thing in which the visual images or sounds constituting the broadcast (or both) have been embodied.

What is a re-transmission of a broadcast [7(1)]

61.—(1) “Re-transmission”, in relation to a broadcast, means a re-transmission of the broadcast without altering its contents.

(2) For the purposes of subsection (1), it does not matter —

- 5 (a) whether the re-transmission is simultaneous with the original transmission; and
- (b) whether the technique used to make the re-transmission is the same as that used for the original transmission.

Subdivision (6) — Performing Authorial Works and Adaptations

10 **What does a performance of an authorial work or adaptation include [22(1), (2)(a)]**

62.—(1) A “performance” of an authorial work or an adaptation of an authorial work —

(a) includes —

- 15 (i) any mode of visual or aural presentation, whether the presentation is by —
- (A) the use of any receiving apparatus;
- (B) the exhibition of a film;
- (C) the use of a record; or
- 20 (D) any other means; and
- (ii) the delivery of a lecture, an address, a speech or a sermon; but

(b) does not include the communication of a work to the public.

25 (2) “Perform”, in relation to an authorial work or an adaptation of an authorial work, has a corresponding meaning.

Performance by operating receiving apparatus [22(3)]

63.—(1) This section applies where —

(a) a device or an equipment is operated to communicate, directly or indirectly, visual images or sounds to a receiving apparatus; and

5 (b) those images are displayed, or those sounds are emitted, by the receiving apparatus.

(2) Despite section 62, the operation of the device or equipment does not constitute a performance.

10 (3) To the extent that the display of the images or the emission of sounds is a performance, the performance is deemed to be made by the operation of the receiving apparatus.

Performance by occupier of premises [22(4)]

64.—(1) This section applies where —

(a) an authorial work or an adaptation of an authorial work is performed by operating —

15 (i) any device or equipment to communicate, directly or indirectly, visual images or sounds to a receiving apparatus; or

(ii) any device or equipment for reproducing sounds by using a record; and

20 (b) the device or equipment is provided by or with the consent of the occupier of the premises where the device or equipment is situated.

25 (2) Without limiting sections 62 and 63, the occupier is deemed to be the person giving the performance, whether or not the occupier operated the device or equipment.

Subdivision (7) — Causing Visual Images or Sounds of Non-Authorial Works to be Seen or Heard

Communication not included [22(2)(b)]

30 **65.** The communication of a work to the public does not amount to causing visual images to be seen or sounds to be heard.

Causing by operation of receiving apparatus [22(3)]

66.—(1) This section applies where —

- 5 (a) a device or an equipment is operated to communicate, directly or indirectly, visual images or sounds to a receiving apparatus; and
- (b) those images are displayed, or those sounds are emitted, by a receiving apparatus.

(2) The operation of the device or equipment does not amount to causing the images to be seen or the sounds to be heard.

10 (3) To the extent that the display of the images causes the images to be seen, the images are deemed to be caused to be seen by the operation of the receiving apparatus.

15 (4) To the extent that the emission of the sounds causes the sounds to be heard, the sounds are deemed to be caused to be heard by the operation of the receiving apparatus.

Causing by occupier of premises [22(4)]

67.—(1) This section applies where —

- 20 (a) visual images are caused to be seen, or sounds are caused to be heard, by operating —
- (i) any device or equipment to communicate, directly or indirectly, visual images or sounds to a receiving apparatus; or
- (ii) in the case of sounds — any device or equipment for reproducing sounds by using a record; and
- 25 (b) the device or equipment is provided by or with the consent of the occupier of the premises where the device of equipment is situated.

30 (2) Without limiting sections 65 and 66, the occupier is deemed to be the person who caused the images to be seen or the sounds to be heard, whether or not the occupier operated the device or equipment.

Subdivision (8) — Commercial acts

What is a commercial dealing in an article or a thing [new]

68.—(1) A person deals in a thing commercially if the person —

- (a) sells the thing;
- 5 (b) lets the thing for hire;
- (c) by way of trade, offers or exposes the thing for sale or hire;
- (d) distributes the thing for the purpose of trade; or
- (e) by way of trade, exhibits the thing in public.

10 (2) “Commercial dealing” and “deals commercially” have corresponding meanings.

(3) In this section, “thing” includes an article.

What is a commercial rental arrangement relating to a sound recording or computer program [25A]

15 69.—(1) Subject to subsection (2), “commercial rental arrangement”, in relation to a sound recording or a computer program, is an arrangement with the following features:

- (a) an arrangement under which a copy of the recording or program is made available by a person on terms that it will or may be returned to the person;
- 20 (b) the arrangement is made in the course of the conduct of a business; and
- (c) the arrangement provides for the copy to be made available —
 - (i) for payment in money or money’s worth; or
 - 25 (ii) as part of the provision of a service in return for payment in money or money’s worth.

(2) An arrangement is not a commercial rental arrangement if it is for the lending of a copy of a sound recording or computer program under which the amount payable is intended to be no more than —

(a) the amount necessary to recover the costs, including overheads, of the arrangement; or

(b) a deposit to secure the return of the copy.

5 (3) In deciding whether an arrangement is a commercial rental arrangement, it is the substance and not the form of the arrangement that matters.

Division 4 — Relevant Persons and Organisations

Subdivision (1) — Qualified individuals and persons

Who is a qualified individual [(27(4))]

10 **70.** “Qualified individual” means —

(a) a Singapore citizen;

(b) a Singapore resident; or

15 (c) an individual who, if he or she had been alive on 1 November 1957, would have qualified for Singapore citizenship under the repealed Singapore Citizenship Ordinance 1957 (Ord. 35 of 1957)).

Who is a qualified person [81(1)]

71. “Qualified person” means —

(a) a qualified individual; or

20 (b) a body corporate incorporated in Singapore under any written law.

Who is a Singapore resident [8(1)]

72. “Singapore resident” —

(a) means an individual resident in Singapore; and

25 (b) includes a person residing in Singapore under a valid pass lawfully issued to him or her under the Immigration Act 1959 to enter and remain in Singapore for any purpose other than a temporary purpose.

Country of residence not affected by temporary absence [8(2)]

5 **73.** For the purposes of this Act, a person who, at a given period of time, was ordinarily resident in a country (including Singapore) but was temporarily absent from that country at any time during that period is to be treated as if he or she had been resident in that country throughout that period.

Subdivision (2) — International Organisations

Prescribed international organisations [185(1); 7(1)]

10 **74.—(1)** Regulations may prescribe international organisations for the purposes of this Act.

(2) In this section, “international organisation” means an organisation —

(a) of which 2 or more countries, or the governments of 2 or more countries, are members; or

15 (b) that is constituted by persons representing —

(i) 2 or more countries; or

(ii) the governments of 2 or more countries.

(3) A “prescribed international organisation” is an international organisation prescribed under subsection (1) and includes —

20 (a) an organ of, or office within, the organisation; and

(b) a commission, council or other body established by the organisation or organ.

Legal capacity of prescribed international organisation [185(2)]

25 **75.—(1)** A prescribed international organisation has, and is deemed to have had at all material times, the legal capacity of a body corporate for the purposes of —

(a) holding, dealing with and enforcing copyright; and

(b) all legal proceedings relating to copyright.

30 (2) This section does not limit any legal capacity that a prescribed international organisation has under any other written law.

Subdivision (3) — Educational institutions

What is an educational institution [7(1)]

76. An “educational institution” is any of the following institutions or undertakings, but only if they are non-profit:

- 5 (a) an institution at which education is provided to children under 7 years of age;
- (b) a school or similar institution at which one or more of the following is provided:
- (i) full-time primary education;
- 10 (ii) full-time secondary education;
- (iii) full-time pre-university education;
- (iv) any other full-time education as may be prescribed;
- (c) a junior college, a university, a college of advanced education or a technical and further education institution;
- 15 (d) an institution that conducts courses of primary, secondary, pre-university or tertiary education by correspondence or on an external study basis;
- (e) a school of nursing;
- (f) an undertaking within a hospital, being an undertaking that
- 20 conducts courses of study or training in —
- (i) providing medical services; or
- (ii) providing services incidental to the provision of medical services;
- (g) a teacher education centre;
- 25 (h) an institution whose main function is to provide courses of study or training for the purpose of —
- (i) general education;
- (ii) preparing persons for a particular occupation or profession; or

- (iii) the continuing education of persons engaged in a particular occupation or profession;
- (i) any other institution at which education is provided as may be prescribed;
- 5 (j) an undertaking, within a body administering an educational institution mentioned in paragraphs (a) to (i), whose main functions include providing teacher training for instructors in any educational institution mentioned in paragraphs (a) to (i);
- 10 (k) an institution, or an undertaking within a body administering an educational institution mentioned in paragraphs (a) to (j), whose main functions include providing materials to any educational institution mentioned in paragraphs (a) to (j) for the purpose of assisting that institution in its teaching purposes.

15 **What is the body administering an educational institution**

[7(3)(a)]

77. The “body administering an educational institution” is —

- (a) if the institution is a body corporate — the institution; or
- 20 (b) in any other case — the body or person (including the Government) having ultimate responsibility for administering the institution.

Subdivision (4) — Persons with Print Disabilities

Who is a person with a print disability [7(1)]

78. A person is a “person with a print disability” if he or she is —

- 25 (a) a blind person;
- (b) a person whose sight is severely impaired;
- (c) a person who is unable to hold or manipulate books or to focus or move his or her eyes; or
- (d) a person with a perceptual handicap.

What is an institution aiding persons with print disabilities
[7(1)]

79. An “institution aiding persons with print disabilities” is an institution —

- 5 (a) whose main functions include providing relevant material to persons with print disabilities;
- (b) that is formed, incorporated or established in Singapore; and
- (c) that is prescribed.

10 **What is the body administering an institution aiding persons with print disabilities** **[7(3)(a)]**

80. The “body administering an institution aiding persons with print disabilities” is —

- (a) in a case where the institution is a body corporate — the institution; or
- 15 (b) in any other case — the body or person (including the Government) having ultimate responsibility for administering the institution.

What is a foreign institution aiding persons with print disabilities **[7(1)]**

20 **81.** A “foreign institution aiding persons with print disabilities” is an institution —

- (a) whose main functions include providing relevant materials to persons with print disabilities; and
- (b) that is formed, incorporated or established outside Singapore.

25 *Subdivision (5) — Persons with Intellectual Disabilities*

What is an institution aiding persons with intellectual disabilities **[7(1)]**

82. An “institution aiding persons with intellectual disabilities” is any educational institution or non-profit organisation —

- (a) whose main functions include aiding persons with intellectual disabilities; and
- (b) that is prescribed as an institution aiding persons with intellectual disabilities.

5 **What is the body administering an institution aiding persons with intellectual disabilities [7(3)(a)]**

83. The “body administering an institution aiding persons with intellectual disabilities” is —

- 10 (a) in the case where the institution is a body corporate — the institution; or
- (b) in any other case — the body or person (including the Government) having ultimate responsibility for administering the institution.

15 *Subdivision (6) — Public Collections:
Galleries, Libraries, Archives and Museums*

What is a public collection [new]

84. A “public collection” is —

- 20 (a) the National Archives (as defined in section 2 of the National Library Board Act 1955);
- (b) the prescribed collections of the National Heritage Board;
- (c) the permanent collection of a library; or
- (d) an archive.

What is an archive [7(1) and 7(4)]

25 **85.** An “archive” is any collection of material (including documents and objects) of historical significance or public interest that is —

- (a) in the permanent custody of a corporate or an unincorporated body;
- (b) maintained by that body for the purpose of conservation or preservation; and

(c) not run for profit by that body.

What is the custodian of a public collection [new]

86. A “custodian” is —

- 5 (a) in relation to the National Archives — the National Library Board;
- (b) in relation to the prescribed collections of the National Heritage Board — the National Heritage Board or a prescribed institution;
- 10 (c) in relation to the permanent collection of a library — the library; and
- (d) in relation to an archive — the body having permanent custody of the archive.

Illustration

15 Museums and galleries are examples of bodies that could have custody of archives.

Who is an authorised officer of a public collection [new]

87. An “authorised officer”, in relation to a public collection, means an authorised officer of the custodian of the public collection.

Division 5 — Rights and Rights Infringements

20 *Subdivision (1) — General*

Who is a rights owner [new]

88. A “rights owner” is —

- (a) in relation to a work in which there is copyright — the owner of the copyright; and
- 25 (b) in relation to a protected performance — the person who is entitled to bring an action for an infringing use of the performance.

What is a rights infringement [new]

89. A “rights infringement” is —

- (a) an infringement of copyright; or
- (b) an infringing use of a performance.

5 **What is an infringing copy of a copyrighted work or protected performance [7(1)]**

90.—(1) An “infringing copy” —

(a) in relation to a work in which there is copyright, is a copy of the work that was —

- 10 (i) made in Singapore in circumstances that constituted an infringement of copyright in the work; or
- (ii) made outside Singapore without the consent of the copyright owner and imported without the licence of the copyright owner; and

15 (b) in relation to a protected performance, is a recording of the performance that was —

- (i) made in Singapore in circumstances that constituted an infringing use of the performance; or
- 20 (ii) made outside Singapore, and imported, without the consent of the rights owner of the performance.

(2) In subsection (1)(a), “copy” means —

(a) in relation to an authorial work — a reproduction of the work or of an adaptation of the work, but not a copy of a film of the work or adaptation;

25 (b) in relation to a sound recording — a copy of the sound recording, but not the sound-track of a film;

(c) in relation to a film — a copy of the film;

(d) in relation to a television broadcast, sound broadcast or cable programme —

30 (i) a copy of a film of the broadcast or programme; or

(ii) a record embodying a sound recording of the broadcast or programme; and

(e) in relation to a published edition of a work — a reproduction of the edition.

5 **What is a flagrantly infringing online location [193A(1); 193DDA(2), (3); 246(1); 252CD(2), (3)]**

91.—(1) A “flagrantly infringing online location” is an online location that has been or is being used to flagrantly commit or facilitate rights infringements.

10 (2) The following matters must be considered in deciding whether an online location is a flagrantly infringing online location:

(a) whether the primary purpose of the online location is to commit or facilitate rights infringements;

15 (b) whether the online location makes available or contains directories, indexes or categories of the means to commit or facilitate rights infringements;

(c) whether the owner or operator of the online location demonstrates a disregard for rights generally;

20 (d) whether access to the online location has been disabled by orders from any court of another country or territory on the ground of or related to rights infringement;

25 (e) whether the online location contains guides or instructions to circumvent measures, or any order of any court, that disables access to the online location on the ground of or related to rights infringement;

(f) the volume of traffic at or frequency of access to the online location;

(g) any other relevant matters.

Subdivision (2) — Copyright

What are acts comprised in copyright of work [9(1)]

5 **92.** A reference in this Act to an act comprised in the copyright in a work is a reference to any act that, under this Act, the owner of the copyright has the exclusive right to do.

What does it mean to do thing with or without the licence of copyright owner [11]

10 **93.** A thing is done with or without the licence of a copyright owner if it is done or not done under a licence that is binding on the copyright owner.

If there is more than one copyright owner for a work, which owner is relevant [25; 12]

15 **94.—(1)** This section applies where (whether because of an assignment limited in accordance with section 130 or otherwise) there are 2 or more different persons who are owners of a copyright in respect of its application to —

(a) the doing of different acts or classes of acts; or

(b) the doing of one or more acts of classes of acts in different countries or at different times.

20 (2) The relevant copyright owner (or prospective copyright owner) for any purpose under this Act is the owner (or prospective owner) of the copyright in relation to —

(a) the doing of the act or class of acts relevant for that purpose; and

25 (b) where applicable, the doing of that act or those acts at the time or in the country relevant for that purpose.

(3) Without limiting subsection (2) —

30 (a) where this Act refers to importing an article without the licence of a copyright owner, the relevant copyright owner is the owner of the copyright in relation to the making of that

type of articles in the country into which the article was imported; and

(b) where this Act refers to selling or otherwise dealing with an article without the licence of a copyright owner, the relevant copyright owner is the owner of the copyright in relation to the making of that type of articles in the country where the article was sold or otherwise dealt with.

(4) Where this Act refers to an imported article that was made without the consent of a copyright owner —

(a) the relevant copyright owner is —

(i) the owner of the copyright in relation to the making of that type of article in the country where the imported article was made; or

(ii) if there is no person falling under sub-paragraph (i), the owner of the copyright in relation to the making of that type of article in Singapore; and

(b) the article is deemed to be made with the relevant copyright owner's consent if it is made with the owner's licence (other than a compulsory licence), disregarding for this purpose any condition as to the sale, distribution or other dealings in the article after its making.

What is an exclusive licence [7(1)]

95.—(1) An “exclusive licence”, in relation to a copyright, is a licence —

(a) granted by the owner or prospective owner of the copyright; and

(b) authorising the licensee, to the exclusion of all other persons, to do an act that, by virtue of this Act, the owner of the copyright would, but for the licence, have the exclusive right to do.

(2) “Exclusive licensee” has a corresponding meaning.

*Division 6 — Miscellaneous***When is a sound or visual image embodied in an article or thing [19]**

5 **96.** A sound or visual image is embodied in an article or a thing if the article or thing has been treated so that the sound or visual image can be reproduced from the article or thing, either with or without the aid of a separate device.

What is sufficient acknowledgment of authorial work [7(1)]

10 **97.—(1)** An acknowledgment of an authorial work is sufficient if the acknowledgement identifies —

(a) the work by its title or other description; and

(b) subject to subsection (2) — the author.

(2) It is not necessary to identify the author if —

(a) the work has no identified author; or

15 (b) the author has previously agreed or directed that his or her name is not to be acknowledged.

PART 3**COPYRIGHT IN WORKS***Division 1 — General*20 **Copyright subsists only by virtue of this Act [4]**

98. Subject to the provisions of this Act, copyright subsists only by virtue of this Act.

Copyrights to subsist independently [117]

25 **99.—(1)** The subsistence or otherwise of copyright under any provision of this Part does not affect the subsistence or otherwise of copyright under any other provision of this Part.

(2) Without limiting subsection (1), the subsistence or otherwise of copyright in an authorial work does not affect the subsistence or

otherwise of copyright in another work derived wholly or partly from the authorial work.

Nature of copyright [9(2)/new]

5 **100.**—(1) Where a copyright owner has the exclusive right to do an act —

(a) the right is a right to exclude others from doing that act without the authorisation of the copyright owner; and

(b) to avoid doubt, the right is not a positive right of the copyright owner to do that act.

10 (2) To avoid doubt, where a copyright owner has the right to be paid equitable remuneration for the doing of an act, the right is not a positive right of the copyright owner to do that act.

Division 2 — Authorial Works

Conditions for copyright to arise in unpublished authorial works [27(1), 76, 197(1), 185(3)]

15 **101.**—(1) Subject to the provisions of this Act, there is copyright in an unpublished authorial work if —

(a) the work is original; and

(b) one of the following applies:

20 (i) the author is a qualified individual when the work was made;

(ii) if the work was made over a period — the author is qualified individual for a substantial part of that period;

25 (iii) the work is made by or under the direction or control of —

(A) the Government; or

(B) a prescribed international organisation.

30 (2) In this section, “author”, in relation to a work of joint authorship, means any of the joint authors.

**Conditions for copyright to arise or continue in published
authorial works [27(2), 76, 185(4), 197(1)]**

5 **102.**—(1) Subject to the provisions of this Act, where an authorial work is published and there is copyright in the work immediately before its first publication by virtue of section 101 —

(a) there continues to be copyright in the work if and only if —

- (i) the work was first published in Singapore;
- (ii) the author of the work was a qualified individual when the work was first published;
- 10 (iii) the author of the work died before the work was first published but was a qualified individual immediately before his or her death; or
- (iv) the work is first published by or under the direction or control of —
 - 15 (A) the Government; or
 - (B) a prescribed international organisation; or

(b) otherwise, the copyright expires.

20 (2) Subject to the provisions of this Act, where an authorial work is published and there is no copyright in the work immediately before its first publication, there is copyright in the work if and only if —

(a) the work is original; and

(b) one of the following applies:

- (i) the work was first published in Singapore;
- 25 (ii) the author of the work was a qualified individual when the work was first published;
- (iii) the author of the work died before the work was first published but was a qualified individual immediately before his or her death;
- (iv) the work is first published by or under the direction or control of —
 - 30 (A) the Government; or

(B) a prescribed international organisation.

(3) In this section, “author”, in relation to a work of joint authorship, means any of the joint authors.

Conditions for copyright to arise in buildings [27(3)]

5 **103.** Subject to the other provisions of this Act, there is copyright in —

- (a) an original artistic work that is a building in Singapore; or
- (b) an original artistic work that is attached to, or part of, a building in Singapore.

10 **Nature of copyright in literary, dramatic and musical works [26 except (1)(b)]**

104.—(1) For the purposes of this Act, unless the contrary intention appears, copyright in a literary, dramatic or musical work is the exclusive right to do all or any of the following acts:

- 15 (a) to reproduce the work in a material form;
- (b) to publish the work if the work is unpublished;
- (c) to perform the work in public;
- (d) to communicate the work to the public;
- (e) to make an adaptation of the work;
- 20 (f) to do, in relation to an authorial work that is an adaptation of the first-mentioned work, any of the acts specified in relation to the first-mentioned work in paragraphs (a) to (e);
- (g) in the case of a computer program — subject to subsections (2), (3) and (4), to enter into a commercial rental arrangement the essential object of which is the rental of the
- 25 program.

(2) If a computer program is embodied in a machine or device and cannot be copied through the ordinary use of the machine or a device, subsection (1)(g) does not extend to entering into a commercial rental arrangement in respect of the machine or device.

30

(3) In subsection (2), “device” does not include —

- (a) a floppy disc;
- (b) a CD ROM;
- (c) an integrated circuit; or
- (d) any other device that is ordinarily used to store computer programs.

5

(4) Subsection (1)(g) does not extend to entering into a commercial rental arrangement in respect of a computer program if —

(a) the copy of the program was bought by a person before 16 April 1998;

10

(b) the copy is not an infringing copy;

(c) the commercial rental arrangement was made in the ordinary course of a business conducted by the person; and

(d) when the person bought the copy, he or she was conducting the same business or another business that involved making commercial rental arrangements in respect of copies of computer programs.

15

Nature of copyright in artistic works [26(1)(b)]

105. For the purposes of this Act, unless the contrary intention appears, copyright in an artistic work is the exclusive right to do all or any of the following acts:

20

(a) to reproduce the work in a material form;

(b) if the work is not published, to publish the work;

(c) to communicate the work to the public.

Duration of copyright in authorial works [new]

106.—(1) Where an authorial work is first published within 50 years after the end of the calendar in which the work was made, any copyright in the work expires —

25

(a) if the author is identified within 70 years after the end of the calendar year in which the work is first published — 70 years after the end of the year in which the author dies; and

30

- (b) if not — 70 years after the end of the calendar year in which the work was first published;
- (2) Where an authorial work was first published more than 50 years after the end of the calendar year in which the work was made, but was otherwise made available to the public within those 50 years, any copyright in the work expires —
- (a) if the author is identified within 70 years after the end of the calendar year in which the work is first made available to the public — 70 years after the end of the year in which the author dies; and
- (b) if not — 70 years after the end of the calendar year in which the work was first made available to the public.
- (3) In any other case, any copyright in an authorial work expires —
- (a) if the author of the work is identified within 70 years after the end of the calendar year in which the work is made — 70 years after the end of the calendar year in which the author dies; and
- (b) if not — 70 years after the end of the calendar year in which the work was made.
- (4) Subsections (1), (2) and (3) are subject to section 102.
- (5) In the case of a work of joint authorship —
- (a) subsections (1)(a), (2)(a) and (3)(b) apply if any author of the work is identified within the periods specified in those provisions;
- (b) a reference in those provisions to the year in which the author dies is a reference to the year in which the last identified author dies.
- (6) For the purposes of this section and section 107, an authorial work is made available to the public in the following circumstances (but without limiting the expression “made available to the public”):
- (a) the work or an adaptation of the work is —
- (i) performed in public;

- (ii) communicated to the public; or
- (iii) published;
- (b) if the work is an artistic work — the work is exhibited in public;
- 5 (c) if the work is an artistic work included in a film — the visual images of the film are seen in public;
- (d) if the work is a building — the building has been constructed;
- (e) records of the work, or of an adaptation of the work, are —
 - (i) offered to the public (whether or not for sale);
 - 10 (ii) exposed for sale to the public.

Duration of copyright in authorial works — transitional provision [new]

107.—(1) Despite section 106, where —

- 15 (a) the author of a literary, musical or dramatic work or an artistic work in the form of an engraving dies before the date of commencement of section 106; and
- (b) the work is first made available to the public —
 - (i) after the death of the author (or, in the case of a work of joint authorship, the last author); but
 - 20 (ii) on or before the relevant date,

any copyright in the work expires 70 years after the end of the calendar year in which the work was first made available to the public.

- 25 (2) Despite section 106, where a photograph is first published on or before the relevant date, any copyright in the work expires 70 years after the end of the calendar year in which the work was first published.

(3) Despite section 106, where —

- 30 (a) an authorial work is published on or before the relevant date; and

(b) the work has no identified author at the time it was first published,

any copyright in the work expires 70 years after the end of the calendar year in which the work was first published.

5 (4) In this section, “relevant date” means the date falling one year after the date of commencement of section 106.

Division 3 — Published Editions of Authorial Works

Conditions for copyright to arise in published editions of works [91; 185(5)(a)]

10 **108.**—(1) Subject to the provisions of this Act, there is copyright in a published edition of an authorial work or works, if —

(a) the edition was first published in Singapore;

(b) the publisher of the edition was a qualified person at the date of first publication; or

15 (c) the edition was first published by or under the direction or control of —

(i) the Government; or

(ii) a prescribed international organisation.

20 (2) Subsection (1) does not apply to an edition of an authorial work or authorial works that reproduces a previous edition of the same work or works.

Nature of copyright in published editions of works [86]

25 **109.** For the purposes of this Act, unless the contrary intention appears, copyright in a published edition of an authorial work or authorial works is the exclusive right to make a reproduction of that edition, whether by a photographic process or by other means.

Duration of copyright in published editions of works [96]

30 **110.** Any copyright in a published edition of an authorial work or authorial works expires 25 years after the end of the calendar year in which the edition was first published.

Division 4 — Sound Recordings

Conditions for copyright to rise in sound recordings [87; 185(4)(a); 197(5)(a)]

5 **111.** Subject to the provisions of this Act, there is copyright in a sound recording if —

- (a) the maker of the recording was a qualified person when the recording was made;
- (b) the recording was made in Singapore;
- (c) the recording was first published in Singapore; or
- 10 (d) the recording was made or first published by or under the direction or control of —
 - (i) the Government; or
 - (ii) a prescribed international organisation.

Nature of copyright in sound recordings [82; new]

15 **112.—(1)** For the purposes of this Act, unless the contrary intention appears, copyright in a sound recording is —

- (a) the exclusive right to do all or any of the following acts:
 - (i) to make a copy of the recording;
 - (ii) subject to subsection (2), to enter into a commercial rental arrangement in respect of the recording;
 - 20 (iii) to publish the recording if it is unpublished;
 - (iv) to communicate the recording to the public; and
- (b) if the recording is published for commercial purposes and a person (X) causes the sounds embodied in the recording to be heard in public, the right to be paid equitable remuneration of an amount —
 - 25 (i) agreed between the copyright owner and X; or
 - (ii) in default of agreement, decided by a Copyright Tribunal.

(2) Subsection (1)(a)(ii) does not extend to entry into a commercial rental arrangement in respect of a sound recording if —

- (a) the copy of the recording was bought by a person before 16 April 1998;
- 5 (b) the copy is not an infringing copy;
- (c) the commercial rental arrangement was made in the ordinary course of a business conducted by the person; and
- 10 (d) when the person bought the copy, he or she was conducting the same business or another business that involved making commercial rental arrangements in respect of copies of sound recordings.

Duration of copyright in sound recordings [new]

113.—(1) Any copyright in a sound recording expires —

- 15 (a) if the recording is first published within 50 years after the end of the calendar year in which the recording was made — 70 years after the end of the calendar year in which the recording is first published; and
- (b) in any other case — 70 years after the end of the calendar year in which the recording was made.

20 (2) Despite subsection (1), if a sound recording is first published before the date falling one year after the date of commencement of this section, any copyright in the recording expires 70 years after the end of the calendar year in which the recording is first published.

Division 5 — Films

25 **Conditions for copyright to arise in films [88; 185(3); 197(5)(a)]**

114. Subject to the provisions of this Act, there is copyright in a film if —

- 30 (a) the maker of the film was a qualified person for the whole or a substantial part of the period during which the film was made;
- (b) the film was made in Singapore;

- (c) the film was first published in Singapore; or
- (d) the film was made or first published by or under the direction or control of —
 - (i) the Government; or
 - (ii) a prescribed international organisation.

Nature of copyright in films [83]

115. For the purposes of this Act, unless the contrary intention appears, copyright in a film is the exclusive right to do all or any of the following acts:

- (a) to make a copy of the film;
- (b) to cause the visual images of the film to be seen in public;
- (c) to cause any sounds of the film to be heard in public;
- (d) to communicate the film to the public.

Duration of copyright in films [new]

116.—(1) Any copyright in a film expires —

- (a) if the film is first published within 50 years after the end of the calendar year in which the film is made — 70 years after the end of the calendar year in which the film is first published;
- (b) if the film was first published more than 50 years after the end of the calendar year in which the film was made, but was otherwise made available to the public within those 50 years — 70 years after the end of the calendar year in which the film is first made available to the public; and
- (c) in any other case — 70 years after the end of the calendar year in which the film was made.

(2) Despite subsection (1), if a film is first published before the date falling one year after the date of commencement of this section, any copyright in the film expires 70 years after the end of the calendar year in which the film is first published.

(3) For the purposes of this section and without limiting the expression “made available to the public”, a film is made available to the public if —

- (a) the film is communicated to the public;
- 5 (b) the visual images of the film are seen in public;
- (c) any sounds of the film are heard in public; or
- (d) the film is published.

Division 6 — Television and Sound Broadcasts

10 **Conditions for copyright to arise in television or sound broadcasts [89]**

117. Subject to the provisions of this Act, there is copyright in a television or sound broadcast if the broadcast is made from a place in Singapore by the holder of a broadcasting licence.

Nature of copyright in television or sound broadcasts [84]

15 **118.—(1)** For the purposes of this Act, unless the contrary intention appears, copyright in a television or sound broadcast is the exclusive right —

- (a) in the case of a television broadcast insofar as it consists of visual images — to make a film of the broadcast, or a copy of such a film;
- 20 (b) in the case of a sound broadcast, or of a television broadcast insofar as it consists of sounds — to make a sound recording of the broadcast, or a copy of such a sound recording;
- (c) in the case of a television broadcast —
 - 25 (i) to cause it, insofar as it consists of visual images, to be seen in public by a paying audience; or
 - (ii) to cause it, insofar as it consists of sounds, to be heard in public by a paying audience; and
- 30 (d) in the case of a television broadcast or a sound broadcast — to re-broadcast it or to otherwise communicate it to the public.

(2) For the purposes of subsection (1)(c), the following persons are considered paying audiences:

- (a) subject to subsection (3), persons who pay to be admitted to —
- 5 (i) the place where a television broadcast is to be seen or heard; or
- (ii) a place that contains the place where a television broadcast is to be seen or heard;
- (b) persons admitted to a place where a television broadcast is to be seen or heard, in circumstances where the place supplies goods or services at prices that —
- 10 (i) exceed the usual prices charged at that place; and
- (ii) are partly attributable to the facilities for seeing or hearing the broadcast.
- 15 (3) Subsection (2)(a) does not include —
- (a) persons admitted to the place in question because they are residents or inmates; or
- (b) persons admitted to the place in question as members of a club or society, where payment is only for membership of the club or society and the provision of facilities for seeing or hearing television broadcasts is only incidental to the main purposes of the club or society.
- 20

Duration of copyright in television or sound broadcasts [94(1)]

25 **119.** Subject to section 120, any copyright in a television or sound broadcast expires 50 years after the end of the calendar year in which the broadcast was made.

Duration of copyright in repeat broadcasts [94(2)]

120.—(1) This section applies to a television or sound broadcast (called in this section a repeat broadcast) that —

30 (a) repeats, whether for the first time or otherwise, an earlier broadcast (called in this section the original broadcast) that is

made from a place in Singapore by the holder of a broadcasting licence; and

(b) is made by broadcasting visual images or sounds embodied in any article or thing.

5 (2) If a repeat broadcast is made within 50 years after the end of the calendar year in which the original broadcast was made, any copyright in the repeat broadcast expires at the end of those 50 years.

(3) If a repeat broadcast is not made within 50 years after the end of the calendar year in which the original broadcast was made, there
10 is no copyright in the repeat broadcast.

Division 7 — Cable Programmes

Conditions for copyright to arise in cable programmes [90]

15 **121.**—(1) Subject to the provisions of this Act, there is copyright in a cable programme if the programme is included in a cable programme service that is provided by a qualified person in Singapore.

(2) Subsection (1) does not apply to a cable programme that is included in a cable programme service by the reception and immediate re-transmission of a television broadcast or a sound
20 broadcast.

Nature of copyright in cable programmes [85]

122.—(1) For the purposes of this Act, unless the contrary intention appears, copyright in a cable programme is the exclusive right to do all or any of the following acts:

25 (a) insofar as the programme consists of visual images —

(i) to make a film of the programme or a copy of such a film; or

(ii) to cause the programme to be seen in public by a paying audience;

30 (b) insofar as the programme consists of sounds —

- (i) to make a sound recording of it or a copy of such a sound recording; or
 - (ii) to cause the programme to be heard in public by a paying audience;
- 5 (c) to communicate the programme to the public.
- (2) An act in subsection (1) can be done by —
 - (a) the reception of a cable programme; or
 - (b) using any record, print, negative, tape or other article on which a cable programme has been recorded.
- 10 (3) To the extent that a cable programme consists of visual images —
 - (a) any copyright in the programme extends to any sequence of those images that is sufficient to be seen as a moving picture; and
 - 15 (b) to show an infringement of any copyright in the programme, it is not necessary to prove that the act in question extends beyond any sequence that is so sufficient.
- (4) For the purposes of subsection (1)(a)(ii) and (b)(ii), the following persons are considered paying audiences:
 - 20 (a) subject to subsection (5), persons who pay to be admitted to —
 - (i) the place where a cable programme is to be seen or heard; or
 - (ii) a place that contains the place where a cable programme is to be seen or heard;
 - 25 (b) persons admitted to a place where a cable programme is to be seen or heard, in circumstances where the place supplies goods or services at prices that —
 - (i) exceed the usual prices charged at that place; and
 - 30 (ii) are partly attributable to the facilities for seeing or hearing the programme.

(5) Subsection (4)(a) does not include —

- (a) persons admitted to the place in question because they are residents or inmates; or
- (b) persons admitted to the place in question as members of a club or society, where payment is only for membership of the club or society and the provision of facilities for seeing or hearing cable programmes is only incidental to the main purposes of the club or society.

Duration of copyright in cable programmes [95]

123. Any copyright in a cable programme expires 50 years after the end of the calendar year in which the cable programme is first included in the cable programme service.

Division 8 — Ownership and Transactions

First owner — maker of work is default first owner [30(1) and (2), 79, 101, 97(1) and (2), 98(1) and (2), 99, 100]

124.—(1) Subject to the provisions of this Division, the first owner of copyright in a work is —

- (a) in the case of an authorial work — the author or joint authors (but not any joint author who is not a qualified individual);
- (b) in the case of a published edition of an authorial work or authorial works — the publisher;
- (c) in the case of a sound recording — the maker of the recording;
- (d) in the case of a film — the maker of the film;
- (e) in the case of a television or sound broadcast — the broadcasting licensee that made the broadcast;
- (f) in the case of a cable programme — the person providing the cable programme service in which the programme was included.

(2) Subsection (1) may be excluded or modified by any agreement between —

- (a) the person who would be the first owner of a copyright under that subsection; and
- (b) any other person.

First owner — copyright arising in the course of employment

[new; 30(4)]

125.—(1) This section applies where an employee, in the course of a contract of service (as defined by section 2(1) of the Employment Act 1968) —

- (a) makes an authorial work, a sound recording, a film, a television or sound broadcast;
- (b) provides a cable programme service and includes a cable programme in the service; or
- (c) publishes an edition of an authorial work or authorial works.

(2) Despite section 124 but subject to subsections (3) and (4), the employer is the first owner of any copyright in the works mentioned in subsection (1).

(3) The employee is the first owner of any copyright if —

- (a) the contract of service was made before the date of commencement of this section; and
- (b) the work concerned is not an authorial work.

(4) If the work is a literary, dramatic or artistic work made —

- (a) by the employee in the course of his or her employment under a contract of service with the proprietor of a newspaper, magazine or similar periodical; and
- (b) for the purpose of publication in the newspaper, magazine or similar periodical,

the proprietor is first owner of any copyright in the work only to the extent that the copyright relates to —

- (c) publishing the work in any newspaper, magazine or similar periodical; or

(d) reproducing the work for the purpose of its being so published.

(5) Subsections (2), (3) and (4) may be excluded or modified by any agreement between the employer and the employee.

5 (6) In this section, “newspaper”, “magazine” and “periodical” includes an online newspaper, magazine or periodical, respectively.

First owner — work commissioned before appointed date [new]

126.—(1) This section applies to an agreement made before the appointed date, under which —

10 (a) one party (X) agrees to —

- (i) take a photograph;
- (ii) paint or draw a portrait;
- (iii) make an engraving;
- (iv) make a sound recording; or

15 (v) make a film; and

(b) the other party (Y) provides valuable consideration.

(2) Despite section 124 but subject to section 125, Y is the first owner of any copyright in any photograph, portrait, engraving, sound recording or film that is taken, painted, drawn or made by X under the agreement.

20

(3) Subsection (2) applies even if the photograph, portrait, engraving, sound recording or film is taken, painted, drawn or made after the appointed date.

(4) Subsection (2) may be modified or excluded by any agreement between X and Y, whether the agreement was made before, on or after the appointed date.

25

(5) In this section, “appointed date” means the date of commencement of this section.

First owner — Government and prescribed international organisations [185(3)(c), (4)(c), 5(c); 197(1)(b), (2), (5), (6)]

127.—(1) Despite sections 124, 125 and 126, the Government is the first owner of —

- 5 (a) any copyright in an unpublished authorial work made by or under the direction or control of the Government (including any copyright in the work after it is published);
- (b) any copyright in a published authorial work arising by virtue of section 102, if the work is first published by or under the
10 direction or control of the Government;
- (c) any copyright in the following works, if the work is published or made (as the case may be) by or under the direction or control of the Government:
- 15 (i) a published edition of an authorial work or authorial works;
- (ii) a sound recording;
- (iii) a film.

(2) Subsection (1) may be excluded or modified by any agreement made by the Government.

- 20 (3) Despite section 124, a prescribed international organisation is the first owner of —
- (a) any copyright in an unpublished authorial work made by or under the direction or control of the organisation (including any copyright in the work after it is published);
- 25 (b) any copyright in a published authorial work arising by virtue of section 102, if the work is first published by or under the direction or control of the organisation; and
- (c) any copyright in the following works, if the work is published or made (as the case may be) by or under the direction or
30 control of the organisation:
- (i) a published edition of an authorial work or authorial works;

- (ii) a sound recording;
- (iii) a film.

Transfer of copyright [194(1)]

5 **128.** Copyright may be transferred as personal or moveable property by —

- (a) assignment;
- (b) testamentary disposition; or
- (c) operation of law.

Assignment — formalities [194(3)]

10 **129.** An assignment of copyright is valid only if it is —

- (a) made in writing; and
- (b) signed by or on behalf of the assignor.

Assignment — partial assignment [194(2)]

15 **130.** An assignment of copyright may be limited, but only in one or more of the following ways:

- (a) to some but not all the types of acts comprised in the copyright;
- (b) to a part but not the whole of each type of act comprised in the copyright;
- 20 (c) to a part of the whole duration of the copyright.

Assignment — assignment of future copyright [195(1)]

131.—(1) A future copyright may be assigned by the person who would be the copyright owner if the copyright existed.

25 (2) Where a future copyright is assigned, the copyright will, when it comes into existence —

- (a) vest in the assignee or the assignee's successor in title, as the case may be; and

(b) not vest in the person who would otherwise be the first owner under section 124, 125, 126 or 127.

(3) In this section and section 132, “future copyright” means a copyright that will come into existence in the future.

5 **Licences — licence of future copyright [195(3)]**

132.—(1) A licence may be granted in respect of a future copyright by the person who would be the copyright owner if the copyright existed.

(2) Section 134 applies to a licence of a future copyright as it
10 applies to the licence of a subsisting copyright.

Licences — formalities for exclusive licence [7(1)]

133. An exclusive licence of a copyright must be —

(a) made in writing; and

(b) signed by or on behalf of the owner or prospective owner of
15 the copyright.

Licences — licence binds successor owners except bona fide purchaser [194(4) and (4A)]

134.—(1) Subject to subsection (2), where the owner of a copyright grants a licence of the copyright, the licence binds every successor in
20 title to the copyright.

(2) Subject to subsection (3), subsection (1) does not apply to —

(a) a successor in title who purchased the title in good faith for valuable consideration and without actual or constructive notice of the licence; or

(b) a person who derives title from that successor.
25

(3) Subsection (2) does not apply to a licence granted on or after 1 July 2004 to the Government or a public body.

Death — devolution of copyright that arises after would-be owner dies [195(2)]

5 **135.**—(1) This section applies where a copyright comes into existence after the death of the person who would have been the copyright owner had he or she been alive.

(2) The ownership of the copyright is to devolve as if —

(a) the copyright existed immediately before the person’s death; and

(b) the person had then been the copyright owner.

10 (3) Despite sections 124, 125, 126 and 127, the person to whom the copyright devolves is the first owner of the copyright.

Death — bequest of manuscript, etc., includes any copyright therein [196; 7(1)]

15 **136.**—(1) This section applies to a bequest (whether specific or general) if —

(a) the bequest entitles a person, beneficially or otherwise, to

(i) the manuscript of a literary, dramatic or musical work; or

(ii) an artistic work; and

20 (b) the work had not been published when the testator died.

(2) Subject to any contrary indication in the testator’s will, the bequest is to be treated as including a bequest of any copyright in the work insofar as the testator owned the copyright immediately before his or her death.

25 (3) In this section, “manuscript”, in relation to an authorial work, means an original document embodying the work, whether written by hand or not.

Division 9 — Infringement of Copyright

Subdivision (1) — What is an infringement of copyright

Infringement by doing act comprised in copyright [31, 103]

5 **137.**—(1) Subject to the provisions of this Act, copyright is infringed if —

- (a) a person does in Singapore, or authorises the doing in Singapore of, any act comprised in the copyright; and
- (b) the person neither owns the copyright nor has the licence of the copyright owner.

10 (2) For the purposes of subsection (1) —

- (a) in the case of a sound recording — it does not matter whether an act is done by directly or indirectly making use of a record embodying the recording; and
- (b) in the case of a television or sound broadcast or a cable programme — it does not matter whether an act is done —
 - 15 (i) by the reception of the broadcast or programme; or
 - (ii) by making use of any article or thing in which the visual images and sounds comprised in the broadcast or programme have been embodied.

20 **Infringement by importation for commercial dealing, etc. [32, 104]**

138.—(1) Subject to the provisions of this Act, copyright in a work is infringed if —

- (a) a person imports an article for the purpose of —
 - 25 (i) dealing commercially in the article; or
 - (ii) distributing the article to an extent that will prejudicially affect the copyright owner;
- (b) the article was imported without the licence of the copyright owner; and

(c) the person knows or ought reasonably to know that the article was made without the consent of the copyright owner.

(2) This section does not limit section 137.

Infringement by commercial dealing, etc., in infringing copy

[33, 105]

139.—(1) Subject to the provisions of this Act, copyright in a work is infringed if —

(a) a person does any of the following acts in Singapore:

(i) deals commercially in an article; or

(ii) distributes an article to an extent that will prejudicially affect the copyright owner;

(b) the act was done without the licence of the copyright owner; and

(c) the person knows or ought reasonably to know that —

(i) if the article was made in Singapore — the making of the article infringed the copyright; and

(ii) if the article was imported — the article was made without the consent of the copyright owner.

(2) This section does not limit section 137.

Accessory to imported article to be disregarded for purposes of sections 138 and 139 in certain circumstances [7(1), 40A, 116A]

140.—(1) This section applies where an imported article includes an accessory and —

(a) either —

(i) an authorial work or a published edition of an authorial work is embodied in the accessory; or

(ii) the accessory is a sound recording or film;

(b) there is copyright in the work, edition, recording or film; and

(c) the article (considered apart from the accessory) is not an infringing copy.

(2) Despite section 138, the copyright in the work, edition, recording or film is not infringed by the importation of the article.

(3) Despite section 139, the copyright in the work, edition, recording or film is not infringed by any commercial dealing in, or
5 distribution of, the imported article.

(4) To avoid doubt, nothing in this section affects the operation of this Act in relation to an authorial work, a published edition, a sound recording or a film that is embodied in the imported article.

(5) In this section, “accessory”, in relation to an article —

10 (a) means one or more of the following:

(i) a label affixed to, or displayed on, the article;

(ii) the article’s packaging or container;

(iii) a label affixed to, or displayed on, the article’s packaging or container;

15 (iv) a leaflet, pamphlet, certificate, warranty, brochure, written instruction or other information incidental to the article and provided with the article on its sale;

(v) an instructional sound recording or film incidental to the article and provided with the article on its sale; but

20 (b) does not include —

(i) a copy of an authorial work that is incorporated into the surface of the article and is a permanent part of the article;

25 (ii) a copy of an authorial work that cannot be separated from the article without making the article unsuitable for its ordinary use; or

(iii) a manual for use in connection with, and meant to be sold together with, computer software.

Infringement by making device that facilitates access to infringing online content [new]

141.—(1) Subject to the provisions of this Act, copyright in a work is infringed if a person (X) —

- 5 (a) makes a device for any of the following purposes:
- (i) dealing commercially in the device;
- (ii) distributing the device to an extent that will prejudicially affect the copyright owner;
- (b) either —
- 10 (i) X promotes, advertises or markets the device as being capable of facilitating access to any flagrantly infringing online location; or
- (ii) X knows, or has reason to believe, that the device —
- (A) has only a limited commercially significant purpose or use other than to facilitate access to any flagrantly infringing online location; or
- 15 (B) is designed, made or performed (as the case may be) primarily for the purpose of facilitating access to any flagrantly infringing online location;
- 20 (c) the work is or has been made available on a flagrantly infringing online location in infringement of the copyright in the work; and
- (d) the device is capable of facilitating access to that location.
- 25 (2) For the purposes of this section, if —
- (a) X is served with the prescribed notice in relation to an online location; and
- (b) the online location is determined to be a flagrantly infringing online location,
- 30 X is presumed (unless the contrary is proved) to know, from the time X was served with the notice, that the online location is a flagrantly infringing online location.

(3) In this section and section 142, “device” includes a component of a device, and a computer program.

Infringement by dealing in device or service facilitating access to infringing online content [new]

5 **142.**—(1) Subject to the provisions of this Act, copyright in a work is infringed if a person (X) —

(a) does any of the following acts:

(i) deals commercially in a device;

10 (ii) imports a device for the purpose of commercial dealing;

(iii) distributes a device to an extent that will prejudicially affect the copyright owner; or

(iv) offers to the public, or provides, a service in exchange for payment;

15 (b) the person knows or has reason to believe, when doing the act, that the device or service —

(i) is promoted, advertised or marketed as being capable of facilitating access to any flagrantly infringing online location;

20 (ii) has only a limited commercially significant purpose or use other than to facilitate access to any flagrantly infringing online location; or

25 (iii) is designed, made or performed (as the case may be) primarily for the purpose of facilitating access to any flagrantly infringing online location;

(c) the work is or has been made available on a flagrantly infringing online location in infringement of the copyright in the work; and

30 (d) the device or service is capable of facilitating access to that location.

(2) For the purposes of this section, if —

(a) X is served with the prescribed notice in relation to an online location; and

(b) the online location is determined to be a flagrantly infringing online location,

5 X is presumed (unless the contrary is proved) to know, from the time X was served with the notice, that the online location is a flagrantly infringing online location.

(3) In this section, “service” includes a subscription service and the provision of information.

10 **Infringement by failure to pay equitable remuneration for causing sounds embodied in commercially published sound recordings to be heard in public [new]**

15 **143.** Subject to the provisions of this Act, copyright in a sound recording is infringed if a person fails to pay equitable remuneration to the copyright owner in the circumstances to which section 112(1)(b) applies.

Exceptions to infringement

144. Part 5 (permitted uses) applies.

Subdivision (2) — Action for Infringement

20 **Action for infringement [119(1), 123]**

145.—(1) Subject to the provisions of this Act, an action for an infringement of copyright may be brought by —

(a) the copyright owner; or

25 (b) if an exclusive licence of the copyright is in force at the time of the infringement — the exclusive licensee.

(2) The exclusive licensee’s right of action under subsection (1)(b) is concurrent with the copyright owner’s right of action under subsection (1)(a).

(3) This section does not —

- (a) give an exclusive licensee any right against a copyright owner; or
- (b) affect any right that an exclusive licensee might have against a copyright owner.

5 **Limitation of action [142]**

146. An action may not be brought for an infringement of copyright more than 6 years after the time when the infringement took place.

Remedies and border enforcement measures [new]

147. Part 6 applies, subject to Division 3 of this Part.

10 *Subdivision (3) — Infringement Action Involving Flagrantly Infringing Online Locations*

Notice to and rights of online location owner [new]

15 **148.**—(1) A person wishing to bring an action for an infringement of copyright right under section 141 or 142 must give notice to the owner of the online location that is alleged to be a flagrantly infringing online location.

(2) However, the court may dispense with the requirement to give notice if the person —

20 (a) is unable to give notice, whether because the identity or address of the owner of the online location cannot be ascertained or for any other reason; and

(b) has made reasonable efforts to give notice.

(3) The owner of the online location has —

(a) the right to be heard in the action; and

25 (b) may appeal against any finding that the online location is a flagrantly infringing online location.

(4) Regulations may prescribe —

(a) in relation to the notice required by subsection (2) —

(i) how a notice must be served;

- (ii) the form of a notice;
 - (iii) the information to be stated in a notice; and
 - (iv) the manner of verifying statements in a notice; and
- (b) what constitutes reasonable efforts for the purposes of subsection (2)(b).

*Subdivision (4) — Infringement Actions where
Exclusive Licensee has Concurrent Right of Action*

Application and definitions [new]

10 **149.**—(1) This Division applies where an action for an infringement of copyright may be brought by the copyright owner and the exclusive licensee of the copyright.

(2) In this Division, unless the context otherwise requires —

15 “infringement” means an infringement of copyright for which the copyright owner and the exclusive licensee of the copyright has concurrent rights of action;

“infringement action” has a corresponding meaning;

“party” means the copyright owner or the exclusive licensee, as the case may be.

Joinder and costs [124, 129]

20 **150.**—(1) This section applies if an infringement action is brought by the copyright owner or the exclusive licensee (but not both).

(2) Unless the court orders otherwise, the party that brought the action is entitled to proceed with the action without joining the other party as a claimant or adding the other party as a defendant.

25 (3) If the other party is added as a defendant, the other party is not liable for any costs in the action unless the other party enters an appearance and takes part in the proceedings.

Same defences and same remedies available [123, 125]

30 **151.**—(1) This section applies if an infringement action is brought by the exclusive licensee.

(2) A defendant in the action is entitled to the same defences under this Act that would be available to the defendant if the action had been brought by the copyright owner.

5 (3) Subject to this Division, the exclusive licensee is entitled to the same remedies that the copyright owner would be entitled under Division 1 of Part 6 to if the action had been brought by the copyright owner.

(4) The remedies of the exclusive licensee are concurrent with the remedies of the copyright owner.

10 **Assessment of damages [126]**

152.—(1) This section applies if —

(a) an infringement action is brought for an infringement by the copyright owner or the exclusive licensee; and

(b) the other party is not a claimant in that action.

15 (2) If the court orders the payment of damages or statutory damages for the infringement, the following matters must be considered in assessing damages or statutory damages:

(a) any right of action exercisable by the other party under that section in respect of the infringement;

20 (b) if the action is brought by the exclusive licensee — any liabilities, whether for royalties or otherwise, to which the licence is subject; and

25 (c) if a separate infringement action is brought by the other party for the infringement — any pecuniary remedy already awarded to the other party under Division 1 of Part 6 in respect of the infringement.

Apportionment of profits [127]

30 **153.**—(1) This section applies if an infringement action is brought for an infringement by the copyright owner or the exclusive licensee (whether or not the other party is also a claimant in that action).

(2) If the court orders an account of profits to be taken in respect of the infringement, the court must —

(a) apportion the profits between the copyright owner and the exclusive licensee in a way the court considers just; and

(b) give directions to give effect to that apportionment.

(3) Subsection (2) is subject to any contrary agreement between the copyright owner and the exclusive licensee.

Separate actions for same infringement [128]

154.—(1) This section applies if the copyright owner and the exclusive licensee bring separate actions for the same infringement.

(2) If there is a final order in one action —

(a) for damages or statutory damages to be paid in respect of the infringement; or

(b) to take an account of profits in respect of the infringement, the court may not make an order to take an account of profits in respect of that infringement in the other action.

(3) If there is a final order in one action to take an account of profits in respect of the infringement, the court may not make an order for the payment of damages or statutory damages for that infringement in the other action.

Subdivision (5) — Presumptions in Infringement Actions

Application [new]

155.—(1) This Division applies in an action for copyright infringement.

(2) The presumptions in this Division do not apply if the contrary is proved.

Presumption that copyright exists if not disputed, etc. [130 (subsistence)]

156.—(1) Copyright is presumed to exist in a work if —

(a) the defendant does not put in issue the question whether copyright exists in the work;

- (b) the defendant puts in issue that question, but does not satisfy the court that this is done in good faith; or
- (c) the defendant puts in issue that question in good faith, but an affidavit is made —

- 5 (i) by or on behalf on the claimant; and
- (ii) asserting facts relevant to showing that copyright exists in the work.

(2) The affidavit mentioned in subsection (1)(c) is to be admitted in evidence and the facts mentioned in subsection (1)(c)(ii) are presumed to be true.

(3) Subsection (1)(c) does not apply if the court directs that oral evidence be adduced to prove the matters stated in the affidavit.

(4) If the defendant —

- (a) puts in issue the question whether copyright exists in a work;
- 15 (b) causes, as a result, unnecessary costs or delay in the proceedings; and
- (c) does not satisfy the court that the question was put in issue in good faith,

the court may order that —

- 20 (d) the defendant is not allowed any costs in the action; and
- (e) the defendant is to pay to the other parties any costs that the defendant caused them to incur.

Presumption that claimant owns copyright if not disputed, etc.
[130 (ownership)]

25 **157.**—(1) This section applies if copyright is proved (or presumed by section 156) to exist in a work.

(2) The claimant is presumed to own the copyright if —

- (a) the defendant does not put in issue the question whether the claimant owns the copyright;
- 30 (b) the defendant puts in issue that question, but does not satisfy the court that this is done in good faith; or

(c) the defendant puts in issue that question in good faith, but an affidavit is made —

(i) by or on behalf on the claimant; and

(ii) asserting facts relevant to showing that the claimant owns the copyright.

5

(3) The affidavit mentioned in subsection (1)(c) is to be admitted in evidence and the facts mentioned in subsection (1)(c)(ii) are presumed to be true.

(4) Subsection (1)(c) does not apply if the court directs that oral evidence be adduced to prove the matters stated in the affidavit.

10

(5) If the defendant —

(a) puts in issue the question whether the claimant owns the copyright in a work;

15

(b) causes, as a result, unnecessary costs or delay in the proceedings; and

(c) does not satisfy the court that the question was put in issue in good faith,

the court may order that —

(d) the defendant is not allowed any costs in the action; and

20

(e) the defendant is to pay to the other parties any costs that the defendant caused them to incur.

Presumption of authorship where name appears [131(1), (2)]

158.—(1) This section applies if —

(a) either —

25

(i) a name purporting to be that of the author (or a joint author) of an authorial work appeared on published copies of the work; or

(ii) a name purporting to be that of the author (or a joint author) of the work appeared on an artistic work when it was made; and

30

(b) the name was —

- (i) a person's true name; or
- (ii) a name by which a person was commonly known.

(2) The person is presumed —

(a) to be the author (or a joint author) of the work; and

5 (b) to have made the work in circumstances to which sections 125 and 126 do not apply.

Presumption of authorship of photograph [131(3)]

159. A person is presumed to have taken a photograph if —

10 (a) it is proved that, at the time the photograph was taken, the person owned the material on which the photograph was taken;

(b) the following apply:

(i) it is not proved who owned the material on which the photograph was taken at the time it was taken;

15 (ii) it is proved that, at the time the photograph was taken, the person owned the apparatus by which the photograph was taken; or

(c) the following apply:

(i) it is not proved —

20 (A) who owned the material on which the photograph was taken at the time it was taken; and

(B) who owned the apparatus by which the photograph was taken at the time it was taken;

25 (ii) it is proved that —

(A) the person owned the photograph at the time of his or her death; or

30 (B) if it is not proved who owns the photograph at the time of the person's death — the photograph was in the person's possession or custody at the time of his or her death.

Presumptions where authorial work is first published in Singapore [132]

160.—(1) This section applies if —

- 5 (a) an infringement action is brought in relation to an authorial work;
- (b) the presumptions in sections 158 and 159 do not apply;
- (c) it is proved that —
- 10 (i) the work was first published in Singapore;
- (ii) the first publication took place during the 70 years immediately before 1 January of the calendar year in which the action was brought; and
- (iii) a name purporting to be that of the publisher appeared on the first published copies of the work; and
- (d) the name was —
- 15 (i) a person's true name; or
- (ii) a name by which a person was commonly known.
- (2) Copyright is presumed to exist in the work.
- (3) The person is presumed to be the owner of the copyright in the work when the work was first published.

20 **Presumptions where author is dead [133(1)]**

161.—(1) This section applies if it is proved that the author of an authorial work is dead.

- (2) The work is presumed to be an original work.
- (3) If the claimant alleges that a specified publication was the first publication of the work and that the first publication took place in a specified country and on a specified date —
- 25 (a) the specified publication is presumed to be the first publication of the work; and
- (b) the first publication of the work is presumed to have taken place in the specified country and on the specified date.
- 30

Presumptions as to anonymous or pseudonymous literary, dramatic, musical or artistic work [133(2)]

162.—(1) This section applies if —

- 5 (a) a literary, a dramatic, a musical or an artistic work has been published;
- (b) the publication is anonymous or is alleged by the claimant to be pseudonymous; and
- (c) it is not proved that the work has an identified author.

(2) The work is presumed to be an original work.

- 10 (3) If the claimant alleges that a specified publication was the first publication of the work and that the first publication took place in a specified country and on a specified date —

- (a) the specified publication is presumed to be the first publication of the work; and
- 15 (b) the first publication of the work is presumed to have taken place in the specified country and on the specified date.

Presumptions relating to label or mark on sound record [134]

163.—(1) This section applies if —

- 20 (a) records embodying a sound recording have been supplied to the public; and
- (b) those records bear a label or other mark stating that —
 - (i) a specified person owns the copyright in the recording;
 - (ii) the recording was first published in a specified year;
 - 25 or
 - (iii) the recording was first published in a specified country.

(2) It is presumed that —

- (a) the specified person owns the copyright in the recording;
- 30 (b) the recording was first published in the specified year; and

(c) the recording was first published in the specified country.

Presumptions as to maker of film [135]

164.—(1) This section applies if —

- (a) copies of a film have been made available to the public;
 - 5 (b) the name of a person appears on those copies in way that implies that the person made the film; and
 - (c) in the case of an individual — the name was the person’s true name or a name by which the person was commonly known.
- (2) The person is presumed —
- 10 (a) to have made the film; and
 - (b) to have made the film in circumstances to which section 126(2) does not apply.

PART 4

PROTECTION OF PERFORMANCES

15 **Interpretation of this Part [246(1) and (3)]**

165.—(1) In this Part —

- “action” means a civil action and includes a counterclaim;
 - “direct”, in relation to recording a performance, means recording the live performance;
 - 20 “indirect”, in relation to recording a performance, means recording from a communication of the performance;
 - “unauthorised”, in relation to a recording of a protected performance, means made without the authority of the rights owner.
- (2) In this Part —
- 25 (a) if a performance has 2 or more performers —
 - (i) a reference to the doing of an act in relation to the performance (or a recording of the performance) with

the performer's authority is a reference to the doing of the act with the authority of every performer;

(ii) a reference to the doing of an act in relation to the performance (or a recording of the performance) without the performer's authority is a reference to the doing of the act without the authority of every performer; and

(b) if a person (X) authorises another person (Y) to make a copy of a recording for a specific purpose and Y makes a copy of the recording for another purpose, the copy made by Y is not made with the authority of X.

Protected performances [246(1) and (2)]

166. A performance is protected if —

(a) the performance is a qualifying performance; and

(b) the performance is given live —

(i) in Singapore; or

(ii) by a qualified individual.

Duration of protection [246(1)]

167. A performance is protected for the period —

(a) beginning on the day the performance is given; and

(b) ending 70 years after the end of the calendar year in which the performance is given.

Infringing use — general [252(1) (but not (d)), (1B), (2)]

168.—(1) Subject to Part 5 (permitted uses), a person makes an infringing use of a protected performance if —

(a) the person does any of the following acts:

(i) while the performance is live —

(A) directly or indirectly records the performance in any manner or medium;

- (B) communicates the performance to the public; or
- (C) causes the performance to be seen or heard (or both) in public;
- (ii) makes a copy of any recording of the performance;
- 5 (iii) publishes any recording of the performance, but only if no recording of the performance has been published;
- (iv) makes a recording of the performance available to the public (on a network or otherwise) in a way that the recording may be accessed by any person from a place and at a time chosen by that person; and
- 10 (b) the act is done —
 - (i) when the performance is protected;
 - (ii) in Singapore;
 - (iii) without the rights owner’s authority; and
 - 15 (iv) on or after 16 April 1998.

(2) In this section and section 169, a reference to making a copy of a recording of a performance includes a reference to making a copy that is temporary or is incidental to some other use of the recording.

Infringing use — commercial dealing in unauthorised recordings, etc. [252(1A), (2)]

169. Subject to Part 5 (permitted uses), a person makes an infringing use of a protected performance if —

- (a) the person does any of the following acts:
 - (i) deals commercially in a recording of the performance;
 - 25 (ii) imports a recording of the performance for the purpose of dealing in the record commercially;
- (b) the act is done —
 - (i) when the performance is protected;
 - (ii) in Singapore;
 - 30 (iii) without the right owner’s authority; and

- (iv) on or after 15 December 1999; and
- (c) the person knows or ought reasonably to know that —
 - (i) the recording was unauthorised; and
 - (ii) the recording was made in circumstances that constitute an infringing use of the performance under section 168.

Action for infringing use of protected performance [253(1)]

170. A performer of a protected performance may bring an action for an infringing use of the performance.

Presumptions relating to identity of performers [253A]

171.—(1) This section applies to an action under section 170.

(2) Unless the contrary is proved, a person is presumed to be the performer of a performance if —

- (a) the person is named on copies of a recording of the performance in a way that implies that the person is the performer of the performance;
- (b) the name used is the true name of the person or a name by which the person is commonly known; and
- (c) the copies are made available to the public.

(3) Unless the contrary is proved, a group of persons is presumed to have performed in a performance if —

- (a) the group is named on copies of a recording of the performance in a way that implies that the group performed in the performance;
- (b) the name used is the true name of the group or a name by which the group is commonly known; and
- (c) the copies are made available to the public.

Remedies and border enforcement measures

172. Part 6 applies.

Assignment of right to bring action [255]

173. The right to bring an action under section 170 may be assigned in writing.

Limitation of action [253(1A)]

5 174. An action under section 170 for an infringing use of a performance may not be brought more than 6 years after the time when the infringing use took place.

Other rights not affected [251(2)]

175. This Part does not affect —

- 10 (a) any copyright in a work that is performed;
- (b) any copyright in a sound recording, film or broadcast of a performance; and
- (c) any other right or obligation arising otherwise than under this Part.

15

PART 5

PERMITTED USES OF
COPYRIGHT WORKS AND
PROTECTED PERFORMANCES

*Division 1 — General Provisions*20 **Permitted uses [new]**

176.—(1) Where an act in relation to a work is a permitted use, the act is not an infringement of any copyright in the work.

(2) Where an act in relation to a protected performance is a permitted use, the act is not an infringing use of the performance.

25 **Permitted uses are independent [new]**

177. Unless this Act expressly provides otherwise, a permitted use is independent of, and does not affect the application of, any other permitted use.

Permitted uses may go beyond scope of copyright or protection of performances [new]

178. An act that is a permitted use —

- (a) is not necessarily comprised in a copyright; and
- 5 (b) would not necessarily constitute an infringing use of a protected performance if the act were not a permitted use.

Explanation — To provide certainty, some provisions on permitted uses are drafted in a way that goes beyond the acts comprised in a copyright and what would otherwise be an infringing use of a protected performance.

Permitted uses may be restricted or excluded by reasonable contract term [new]

179.—(1) Subject to this section and section 180, a rights owner may, by contract with a person, exclude or restrict the application of a permitted use to that person.

- 15 (2) A term in a contract between the rights owner and another person (called in this section the counterparty) is valid for the purposes of subsection (1) only if —

- (a) the contract is individually negotiated; and
- (b) the term is fair and reasonable, having regard to the
 - 20 circumstances which were, or ought reasonably to have been, known to or in the contemplation of the parties when the contract was made.

(3) For the purposes of subsection (2)(b), relevant factors in deciding whether a term of a contract is fair and reasonable include —

- 25 (a) the strength of the bargaining positions of the parties relative to each other, taking into account (among other things) alternative means by which the counterparty's requirements could have been met;
- (b) whether the counterparty received an inducement to agree to
 - 30 the term, or in accepting it had an opportunity of entering into a similar contract with other persons, but without having to accept a similar term;

- (c) whether the counterparty knew or ought reasonably to have known of the existence and extent of the term (having regard, among other things, to any custom of the trade and any previous course of dealing between the parties); and
- 5 (d) whether at the time of the contract it was reasonable to expect that the contract is workable without the term.
- (4) Where a term of a contract between a rights owner and a person excludes or restricts the application of a permitted use to that person, the benefit of that term passes to subsequent rights owners.
- 10 (5) This section applies to any contract, whether made before, on or after the date of commencement of this section.

Permitted uses that may not be excluded or restricted [new]

- 15 **180.**—(1) Any contract term is void to the extent that it purports, directly or indirectly, to exclude or restrict any permitted use under any provision in —
- (a) Division 6 (public collections);
 - (b) Division 7 (computer programs);
 - (c) Division 8 (computational data analysis); or
 - (d) Division 17 (judicial proceedings and legal advice).
- 20 (2) Without limiting subsection (1), a contract term is void to the extent that it purports, directly or indirectly, to prevent or restrict the doing of any of the following acts in circumstances that constitute a permitted use under the provision mentioned in subsection (1):
- 25 (a) the communication, making or supply of a copy or reproduction of a work or protected performance;
 - (b) the performance of any work or recording of a protected performance.

Evasion through choice of law clause to be void [new]

- 30 **181.**—(1) A term of a contract that purports to apply the law of a country other than Singapore is void if —

(a) the term has been imposed wholly or mainly for the purpose of evading the operation of any permitted use; or

5 (b) in the making of the contract one of the parties dealt as consumer, and he or she was then a Singapore resident, and the essential steps for the making of the contract were taken in Singapore, whether by him or her or by others on his or her behalf.

10 (2) For the purposes of subsection (1)(b), the interpretation of section 27(2)(b) of the Unfair Contract Terms Act 1977 must be considered.

(3) This section applies to any contract, whether made before, on or after the date of commencement of this section.

Division 2 — Fair use

Fair use is permitted use [new]

15 **182.**—(1) A fair use of any work is a permitted use.

(2) A fair use of a protected performance is a permitted use.

(3) This Division provides what is a fair use.

(4) In this Division, unless the context otherwise requires —

20 (a) “work”, in the case of a literary, dramatic or musical work, includes an adaptation of the work; and

(b) “performance”, includes a recording of the performance.

Fair use — relevant factors [new]

25 **183.** Subject to sections 184, 185 and 186, the factors to be considered in deciding whether a work or performance is fairly used include —

(a) the purpose and character of the use, including whether the use is of a commercial nature or is for non-profit educational purposes;

(b) the nature of the work or performance;

- (c) the amount and substantiality of the portion used in relation to the whole work or performance; and
- (d) the effect of the use upon the potential market for, or value of, the work or performance.

5 **Fair use — research and study [new]**

184.—(1) For the purpose of section 183(a), research and study is a purpose for which a work or performance may be fairly used.

(2) Despite section 183, copying a work for the purpose of research and study is deemed to be a fair use if —

- 10 (a) the work is an article in a periodical publication; or
- (b) no more than a reasonable portion of the work is copied.

(3) Subsection (2) does not apply to the copying of an article in a periodical publication if —

- (a) another article in that publication is also copied; and
- 15 (b) the copied articles deal with different subject-matters.

Fair use — criticism or review [36; 110]

185.—(1) For the purpose of section 183(a), criticism and review of any work or performance are purposes for which a work or performance may be fairly used.

20 (2) Despite section 183, using a work or performance for the purpose of criticism or review is not fair unless there is sufficient acknowledgment of —

- (a) the work or performance; and
- (b) where an adaptation of a work is used — the adaptation;

25 (3) If any of the following works is fairly used for the purpose of criticism or review, any other work or any recording of a performance that is included in the fairly-used work is also taken to be fairly used:

- (a) a sound recording;
- (b) a film;
- 30 (c) a sound broadcast;

(d) a television broadcast;

(e) a cable programme.

Fair use — reporting news [37; 111]

5 **186.**—(1) For the purpose of section 183(a), reporting news is a purpose for which a work or performance may be fairly used.

(2) Despite section 183, using a work or performance for the purpose of reporting news is not fair unless —

(a) there is sufficient acknowledgment of —

(i) the work or performance; and

10 (ii) where an adaptation of a work is used — the adaptation; or

(b) sufficient acknowledgment is impossible, for reasons of practicality or otherwise.

Division 3 — Education and Educational Institutions

15 **Definition: what is a recording or copy made or used for the educational purposes of an educational institution [7(1A), 247]**

187.—(1) A recording or a copy of any work or part of the work is taken to have been made or used for the educational purposes of an educational institution if —

20 (a) the recording or copy is made for use, or is used, in connection with a course of instruction provided by the institution; or

(b) the recording or copy is made for inclusion, or is included, in the collection of a library of the institution.

25 (2) In subsection (1), “recording” includes a copy of a recording and a recording of a protected performance.

(3) Subsection (1) does not limit the meaning of “educational purposes” in this Act.

Copying authorial work by non-reprographic means for course of education [50A]

188.—(1) Making a copy of an authorial work is a permitted use if the copy —

- 5 (a) is made for the purposes of a course of education;
- (b) is made by a person conducting or undergoing the course; and
- (c) is not made by a reprographic process.
- (2) In this section, “reprographic process” means —
- 10 (a) a process —
- (i) for making facsimile copies, whether of the same scale or not; or
- (ii) involving the use of an appliance for making multiple copies, and
- 15 (b) includes, in relation to an authorial work in electronic form, any copying by electronic means, but does not include the making of a film or a sound recording.

Copying or communicating very small portions of literary or dramatic work for course of education provided by educational institution [51; 53]

189.—(1) If the conditions in subsection (2) are met, it is a permitted use of a literary or dramatic work for a person (X) to —

- 20 (a) make a copy of a part (but not the whole) of the work in an edition of the work; or
- 25 (b) communicate a part (but not the whole) of the work in an edition of the work.
- (2) The conditions are —
- (a) either —
- (i) the copy is made or the communication is initiated —
- 30 (A) on or from the premises of an educational institution; and

- (B) for the purposes of a course of education provided by the institution; or
- (ii) the copy (being an electronic copy) or the communication is made —
- 5 (A) on a network operated or controlled by an educational institution; and
- (B) for the purpose of being accessed by persons undertaking a course of education provided by the institution;
- 10 (b) the part of the work that is copied or communicated does not exceed —
- (i) if the edition has 500 pages or less — 5 pages;
- (ii) if the edition has more than 500 pages — 5% of the total number of pages in the edition;
- 15 (iii) if the edition is an electronic edition and is not divided into pages —
- (A) 5% of the total number of bytes in the edition; and
- (B) 5% of the total number of words in the edition or, where it is not practicable to use the total number of words as a measure, 5% of the contents of the edition; and
- 20
- (c) in the 14 days before the day on which the work was copied or communicated, X did not (whether on X's own behalf or on behalf of another person) —
- 25 (i) copy or communicate any part of the work; or
- (ii) cause any part of the work to be copied or communicated.
- (3) In this section, a reference to an edition of an authorial work
- 30 includes a reference to an edition of works that includes that work.

(4) For the purposes of this section, where a literary or dramatic work is accompanied by an explanatory or illustrative artistic work, the artistic work is taken to be part of the literary or dramatic work.

**Copying or communicating authorial works or performances
for educational purposes of educational institutions [52, 201(1)]**

190.—(1) If the conditions in subsection (2) are met, it is a permitted use of —

(a) an authorial work to —

(i) make copies of the work (or part of the work); or

(ii) communicate the work (or part of the work); and

(b) a protected performance to —

(i) make a recording of the performance (or part of the performance); or

(ii) communicate the performance (or part of the performance).

(2) The conditions are —

(a) the copy or communication is made by or on behalf of the body (X) administering an educational institution —

(i) for the educational purposes of any educational institution; or

(ii) in an electronic form on a network operated or controlled by any educational institution for the purpose of being accessed by persons undertaking a course of education provided by that institution or another educational institution;

(b) in the case of an article in a periodical publication —

(i) the copy or communication does not include the whole or parts of 2 or more articles contained in the same periodical publication; or

(ii) the copied or communicated articles relate to the same subject-matter;

- (c) in the case of a work (other than an article in a periodical publication), or a recording of a performance, that has been separately published —
- (i) not more than a reasonable portion of the work or recording is copied or communicated; or
 - (ii) before the work or recording or any part of the work or recording was copied or communicated, the person who did or caused the copying or communication —
 - (A) made a reasonable investigation; and
 - (B) is satisfied that there is no new copy of the work or recording that could be obtained within a reasonable time at an ordinary commercial price;
- (d) in the case of subsection (1)(a)(i) and (b)(i) — the copy or recording is notated according to section 286; and
- (e) after the copy or communication is made, a record of that fact is made —
- (i) in the prescribed form and manner; and
 - (ii) by or on behalf of X.
- (3) The record mentioned in subsection (2)(e) —
- (a) must state any prescribed particulars; and
 - (b) may, if the copy or communication is exempt, state so.
- (4) X must pay equitable remuneration to the rights owner if —
- (a) the owner makes a written request within the prescribed period after the copy or communication is made; and
 - (b) the copy or communication is —
 - (i) not exempt; or
 - (ii) not stated as exempt in the record made under subsection (2)(e).
- (5) The amount of equitable remuneration is to be —
- (a) agreed between X and the rights owner; or

(b) in default of agreement, decided by a Copyright Tribunal.

(6) For the purposes of this section, a copy or communication of a work or recording made for the educational purposes of an educational institution is exempt if —

- 5 (a) the copy was made for distribution, or the communication was made, to persons undertaking a correspondence course or an external study course provided by the institution;
- (b) the copy was not distributed, or the communication was not made, as part of the lecture notes prepared for the course;
- 10 (c) in the case of a work other than an article in a periodical publication — only a reasonable portion of the work has been copied or communicated; and
- (d) in the case of a recording of a performance — only a reasonable portion of the recording has been copied or
- 15 communicated.

(7) This section does not affect the right of the rights holder of an authorial work to grant a licence, or the right of the rights holder of a protected performance to give consent, to the body administering an educational institution —

- 20 (a) to make, or cause to be made, copies of the work (or part of the work) or recordings of the performance (or part of the performance); or
- (b) to communicate, or cause to be communicated, the work or performance (or part of the performance).

25 **Use of broadcasts or cable programmes for educational purposes [115]**

191.—(1) If the conditions in subsection (2) are met —

- (a) making a record of a sound broadcast is a permitted use of the broadcast; and
- 30 (b) making a film of a television broadcast or cable programme is a permitted use of the broadcast or programme.

(2) The conditions are —

(a) the record or film is made by or on behalf of the person or authority in charge of an educational institution; and

(b) the record or film is not used except in the course of instruction at that institution.

5 (3) A permitted use of a sound broadcast, television broadcast or cable programme under subsection (1) is also a permitted use of any work, or of any recording of a protected performance, included in the broadcast or programme.

10 **Copying for course of instruction in making of film or sound-track [115A]**

192.—(1) If the conditions in subsection (2) are met, it is a permitted use to —

(a) make a copy of a sound recording, film, television broadcast, sound broadcast or cable programme; and

15 (b) make a recording of a protected performance.

(2) The conditions are —

(a) the copy or recording is made in the making of a film or a sound-track of a film;

20 (b) the film or sound-track mentioned in paragraph (a) is made in the course of instruction, or in preparation for instruction, in making a film or a sound-track of a film; and

(c) the copy or recording is made by a person giving or receiving instruction in making a film or a sound-track of a film.

Things done for purposes of examination [52A, 115B]

25 **193.** It is a permitted use of any work or protected performance to do anything for the purposes of an examination, including —

(a) setting the questions;

(b) communicating the questions to the candidates; and

(c) answering the questions.

Inclusion of authorial work in collections for use by educational institutions [40]

5 **194.**—(1) If the conditions in subsection (2) are met, it is a permitted use of an authorial work to include, in a collection of authorial works contained in a book, sound recording or film —

- (a) a short extract from the work; or
- (b) in the case of a literary, dramatic or musical work — a short extract from an adaptation of the work.

(2) The conditions are —

- 10 (a) the work or adaptation has been published;
- (b) the work or adaptation was not published for the purpose of being used by educational institutions;
- (c) the collection is intended for use by educational institutions;
- 15 (d) the collection is described as being intended for use by education institutions —
 - (i) in the book;
 - (ii) on the label of each record embodying the recording, or on the container of each record; or
 - (iii) in the film;
- 20 (e) the work or adaptation is sufficiently acknowledged; and
- (f) the collection and any similar recent collection do not contain, in total, more than one other extract from any other work (or adaptation of the work) by the same author.

25 (3) In subsection (2)(f), “similar recent collection” means a collection that is —

- (a) published by the same publisher that published the collection mentioned in subsection (1);
- (b) published in the 5 years immediately before the publication of the collection mentioned in subsection (1);
- 30 (c) intended for use by educational institutions; and

- (d) otherwise similar to the collection mentioned in subsection (1).

Using work or recording of performance available on Internet for educational purposes [new]

5 **195.**—(1) If the conditions in subsection (2) are met, it is a permitted use of —

(a) any work for a person to —

- (i) reproduce, or make a copy of, the work;
 (ii) communicate the work to the public; or
 10 (iii) in the case of an authorial work — make an adaptation of the work; and

(b) a protected performance for a person to —

- (i) make a recording of the performance; or
 15 (ii) communicate a recording of the performance to the public.

(2) The conditions are —

(a) the person (X) accessed the work or recording using the Internet;

20 (b) the work or recording was accessible for free when X accessed it;

(c) either —

25 (i) X is a public officer or an officer of a public body, and the act is done for the purpose of developing or implementing a curriculum for an educational institution; or

(ii) X is a student of or a member of the staff of an educational institution, and the act is done for the educational purposes of that institution;

(d) X gives or causes to be given —

30 (i) an acknowledgment of the Internet source from which the work or recording was accessed; and

- (ii) a sufficient acknowledgment of the work or recording, if and to the extent that the necessary information is available from the Internet source;
 - (e) in the case of a communication to the public — the communication is done on —
 - (i) a network —
 - (A) that is operated or controlled by an educational institution; and
 - (B) to which access is limited to the students or staff of that institution; or
 - (ii) a prescribed platform; and
 - (f) if the work or recording had been made available on the Internet in circumstances that constituted a rights infringement — X did not know and could not reasonably have known this.
- (3) Without limiting the expression “educational purposes” elsewhere in this Act, for the purposes of this section, the following are taken to be acts done for educational purposes:
- (a) collaborative research;
 - (b) giving or receiving instruction;
 - (c) acts to prepare for giving or receiving instruction;
 - (d) organising or participating in an exhibition or a competition, whether within an educational institution or at the national or international level.

Performances by students or staff of educational institution, etc.

[23]

196.—(1) Performing a musical work in public is a permitted use if —

- (a) the work is performed for an audience by the students or staff of an educational institution, whether on the premises of the institution or elsewhere; and

(b) the performance is in the course of the institution's activities.

(2) Performing a literary or dramatic work in public is a permitted use if —

5 (a) the work is performed for an audience by the students or staff of an educational institution, whether on the premises of the institution or elsewhere;

(b) the audience is limited to —

(i) persons giving or receiving instruction at the institution; and

10 (ii) persons directly connected with the institution; and

(c) the performance is in the course of the institution's activities.

(3) If the conditions in subsection (4) are met, it is a permitted use to cause to be seen or heard in public the visual images or sounds (as the case may be) that are part of —

15 (a) any of the following works:

(i) a sound recording;

(ii) a film;

(iii) a television or sound broadcast;

(iv) a cable programme; or

20 (b) a recording of a protected performance.

(4) The conditions are —

(a) the images or sounds are caused, by the students or staff of an educational institution, to be seen or heard by an audience, whether on the premises of the institution or elsewhere;

25 (b) the audience is limited to —

(i) persons giving or receiving instruction at the institution; and

(ii) persons directly connected with the institution; and

30 (c) the images are caused to be seen, or the sounds are caused to be heard, in the course of the institution's activities.

(4) For the purposes of this section —

(a) a person is directly connected with an educational institution if he or she is a parent, guardian, or a sibling of a student who receives instruction at the institution; and

5 (b) the staff of an educational institution includes —

(i) any adjunct staff of the institution; and

(ii) any person engaged by the institution to conduct any course of instruction, activity or programme of or offered by the institution.

10 *Division 4 — Persons with Print Disabilities*

Material to which this Division applies [54(19), 115C(1)]

197. In this Division, “relevant material” means —

(a) any of the following works:

(i) a published literary work;

15 (ii) a published dramatic work;

(iii) a published artistic work;

(iv) a sound broadcast or a published sound recording, but not a sound broadcast or sound recording that comprises only one or more of the following:

20 (A) the performance of a musical work;

(B) a musical work in which words are sung;

(C) a musical work in which words are spoken incidentally to or in association with the music; or

25 (b) a published recording of a protected performance, but not a recording that comprises only of one or more of the following:

(i) the performance of a musical work;

(ii) a musical work in which words are sung; or

- (iii) a musical work in which words are spoken incidentally to or in association with the music.

Definition: what is an accessible format [7(1), 7(1B)]

198.—(1) A format is an “accessible format” if it is —

- 5 (a) any format that is accessible to persons with print disabilities, including —
 - (i) a large print version;
 - (ii) an electronic book;
 - (iii) a sound recording; and
 - 10 (iv) the format known as Digital Accessible Information System (DAISY); or
- (b) any format that is specifically designed to meet the needs of persons with print disabilities, including —
 - (i) a Braille version; and
 - 15 (ii) a photographic version.

(2) For the purposes of subsection (1)(b)(ii), a thing is in photographic version if it is produced as a film-strip, or a series of separate transparencies, designed to meet the needs of persons with print disabilities.

20 Definition: what is an accessible format copy [7(1)]

199. An “accessible format copy” means —

- (a) in relation to an authorial work — a copy (whether in an electronic or a physical form) of the work (or part of the work) in an accessible format; or
- 25 (b) in relation to a sound recording or a recording of a protected performance — a copy (whether in an electronic or a physical form) of the recording (or part of the recording) in an accessible format; and
- (c) in relation to a sound broadcast — a sound recording, or a
- 30 copy of a sound recording (whether in an electronic or a

physical form), of the sound broadcast or (or part of the sound broadcast), in an accessible format.

Definition: what is a new copy of an accessible format copy
[54(14)]

5 **200.** In this Division, an accessible format copy of an authorial work is new if —

- (a) in the case of a physical copy — the copy is not secondhand;
- (b) in the case of a copy that is a sound recording, or an electronic copy, that is embodied or stored in a record or other article
 10 — a copy that is embodied or stored in a record or other article that is not secondhand; or
- (c) in the case of a copy that is a sound recording, or an electronic copy, that is not embodied or stored in a record or other article — a copy that is fit for use.

15 **Interpretation: what does it mean to make available an accessible format copy to persons with print disabilities or a foreign institution [7(6), 115C(2)(b)]**

201. For the purposes of this Division —

- (a) an accessible format copy is made available to a person with
 20 a print disability if the copy is made available —
 - (i) to the person;
 - (ii) on a network or otherwise; and
 - (iii) in a way that the copy may be accessed by the person from a place and at a time of his or her choosing; and
- (b) an accessible format copy is made available to a foreign
 25 institution aiding persons with print disabilities if the copy is made available —
 - (i) to a person (X) responsible for the day-to-day administration of the institution, or a person (Y)
 30 authorised by X;
 - (ii) on a network or otherwise; and

- (iii) in a way that the copy may be accessed by X or Y from a place and at a time of his or her choosing.

Making, distributing or making available accessible format copies for Singapore residents with print disabilities [54(1) to (4), (19), 201(1)]

202.—(1) If the conditions in subsection (2) are met, it is a permitted use of any relevant material to —

- (a) make an accessible format copy of the material;
- (b) distribute a physical copy of the material that is an accessible format copy; or
- (c) make available an electronic copy of the material that is an accessible format copy.

(2) The conditions are —

- (a) the copy was made, distributed or made available by or on behalf of —

- (i) the body administering an institution aiding persons with print disabilities; or

- (ii) an educational institution;

- (b) before the copy was made, distributed or made available, the body or the educational institution (or a person acting on behalf of the body or educational institution) —

- (i) made a reasonable investigation; and

- (ii) was satisfied that there is no new copy of the material that —

- (A) has been separately published;

- (B) is in the same accessible format as the copy; and

- (C) could be obtained within a reasonable time at an ordinary commercial price;

- (c) the copy was not made, distributed or made available for profit;

- (d) the copy is made for, or distributed or made available to, a person with a print disability (X);
- (e) the copy is to be used by X for personal research and study or for self-instruction in any matter;
- 5 (f) X is a Singapore resident;
- (g) if the copy was made, distributed or made available by or on behalf of an educational institution — X is a student of the institution;
- (h) as soon as practicable after the copy was made, distributed or
10 made available, the body or the educational institution (or a person acting on behalf of the body or educational institution) makes a record of the prescribed matters;
- (i) in the case of subsection (1)(a) — the copy is notated according to section 286; and
- 15 (j) any other condition that may be prescribed.

(3) If the copy was made, distributed or made available before the date of commencement of this section, the body or institution mentioned in subsection (2)(a) must pay equitable remuneration to the rights owner if the latter makes a written request within the
20 prescribed period after the copy is made, distributed or made available (even if the request is made on or after the date of commencement of this section).

- (4) The amount of equitable remuneration is to be —
- (a) agreed between the body and the rights owner; or
 - 25 (b) in default of agreement, decided by a Copyright Tribunal.

(5) To avoid doubt, it does not matter whether the copy is made before, on or after the date of commencement of this section.

Making or making available accessible format copies for foreign institutions or non-resident persons with print disabilities [54(5) and (6)]
30

203.—(1) If the conditions in subsection (2) are met, it is a permitted use of any relevant material to —

- (a) make a physical copy of the material that is an accessible format copy; or
- (b) make available an electronic copy of the material that is an accessible format copy.
- 5 (2) The conditions are —
- (a) the copy was made or made available by or on behalf of —
- (i) the body administering an institution aiding persons with print disabilities; or
- (ii) an educational institution;
- 10 (b) the copy is made for, or made available to —
- (i) a foreign institution aiding persons with print disabilities; or
- (ii) a person with a print disability who is not a Singapore resident;
- 15 (c) the copy was not made or made available for profit;
- (d) in the case of subsection (1)(a) —
- (i) the copy was made for export; and
- (ii) the copy is notated according to section 286;
- 20 (e) after the copy was made or made available, the body or the educational institution (or a person acting on behalf of the body or educational institution) makes a record of the prescribed matters;
- (f) the body or the educational institution (or a person acting on behalf of the body or educational institution) complies with
- 25 any prescribed requirements for checking the identity and other particulars of the foreign institution or person mentioned in paragraph (b); and
- (g) any other condition that may be prescribed.
- (3) To avoid doubt, it does not matter whether the copy is made
- 30 before, on or after the date of commencement of this section.

**Receiving, importing or distributing accessible format copies
from foreign institutions [54(7) to (10)]**

204.—(1) If the conditions in subsection (2) are satisfied, it is a permitted use of any relevant material to —

- 5 (a) make a temporary electronic copy of the material that is an accessible format copy;
- (b) import a physical copy of the material that is an accessible format copy; or
- 10 (c) distribute a physical copy of the material that is an accessible format copy.

(2) The conditions are —

- (a) the copy was made, imported or distributed by or on behalf of —
- 15 (i) the body administering an institution aiding persons with print disabilities; or
- (ii) an educational institution;
- (b) the body or educational institution had requested the copy from a foreign institution aiding persons with print disabilities;
- 20 (c) the copy was requested —
- (i) for a person with a print disability to use the copy for personal research and study or for self-instruction in any matter; or
- 25 (ii) for the purpose of distributing the copy on a non-profit basis —
- (A) in the case of the body — to a person with a print disability, so that the person can use the copy for personal research and study or for self-instruction in any matter; or
- 30 (B) in the case of the educational institution — to a student of the institution (being a person with a print disability), so that the person can use the

copy for personal research and study or for self-instruction in any matter;

- 5 (d) before the copy was made, imported or distributed, the body or the educational institution (or a person acting on behalf of the body or educational institution) —
- (i) made a reasonable investigation; and
 - (ii) was satisfied that there is no new copy of the material that —
 - (A) has been separately published;
 - 10 (B) is in the same accessible format as the copy; and
 - (C) could be obtained within a reasonable time at an ordinary commercial price;
- 15 (e) for subsection (1)(a) — the temporary electronic copy is made incidentally to the technical process of receiving the copy from the foreign institution;
- (f) for subsection (1)(b) — the imported physical copy originated from the foreign institution;
- (g) for subsection (1)(c) —
- 20 (i) the distribution is to a local person on a non-profit basis; and
 - (ii) the distributed copy originated from the foreign institution;
- (h) after the copy was received, the body or the educational institution (or a person acting on behalf of the body or educational institution) makes a record of prescribed matters; and
- 25 (i) any other condition that may be prescribed.

- 30 (3) If the copy was distributed before the date of commencement of this section, the body or institution mentioned in subsection (2)(a) must pay equitable remuneration to the rights owner if the latter makes a written request within the prescribed period after the copy is

distributed (even if the request is made on or after the date of commencement of this section).

(4) The amount of equitable remuneration is to be —

(a) agreed between the body and the rights owner; or

5 (b) in default of agreement, decided by a Copyright Tribunal.

(5) To avoid doubt, it does not matter whether the acts mentioned in subsection (1) are done before, on or after the date of commencement of this section.

**Making of accessible format copy by person with print
10 disabilities for personal use [54(11) and (12)]**

205.—(1) Making an accessible format copy of any relevant material is a permitted use if —

(a) the copy is made by —

15 (i) a person with a print disability (X) who is a Singapore resident; or

(ii) a person acting on X's behalf, but not —

(A) the body administering an institution aiding persons with print disabilities; or

20 (B) an educational institution of which X is a student;

(b) the copy is to be used by X for personal research and study or for self-instruction in any matter;

(c) before making the copy, X or the person acting on X's behalf —

25 (i) made a reasonable investigation; and

(ii) was satisfied that there is no new copy of the material that —

(A) has been separately published;

(B) is in the same accessible format as the copy; and

(C) could be obtained within a reasonable time at an ordinary commercial price; and

(d) any other condition that may be prescribed is met.

(2) To avoid doubt, it does not matter whether the copy was made before, on or after the date of commencement of this section.

Copyright not to vest by virtue of making accessible format copy for persons with print disabilities [54(17); 7(3)(g)]

206.—(1) This section applies where an accessible format copy of any relevant material is made —

(a) by or on behalf of an educational institution or the body administering an institution aiding persons with print disabilities;

(b) on a non-profit basis; and

(c) to be used by a person with a print disability for personal research and study or for self-instruction in any matter.

(2) Despite any other provision of this Act, copyright does not vest in the person who made the copy just because the person made the copy.

Division 5 — Persons with Intellectual Disabilities

Copying of authorial works by institution aiding persons with intellectual disabilities [54A(1) to (7); 201(1)]

207.—(1) Making a copy of an authorial work is a permitted use if —

(a) the work has been published;

(b) the copy is made by or on behalf of a body administering an institution aiding persons with intellectual disabilities;

(c) the copy is made for the sole purpose of aiding persons with intellectual disabilities (whether the aid is provided by the institution or not);

(d) before the copy was made, the person who makes or causes the copy to be made —

- (i) made a reasonable investigation; and
 - (ii) was satisfied that there is no new copy of the work that —
 - (A) has been separately published;
 - 5 (B) is in a form that is suitable for aiding persons with intellectual disabilities; and
 - (C) could be obtained within a reasonable time at an ordinary commercial price;
 - (e) the copy is notated according to section 286; and
 - 10 (f) a record of the copying, made in the prescribed manner and containing the prescribed information, is made by or on behalf of the body.
- (2) The body mentioned in subsection (1)(b) must pay equitable remuneration to the copyright owner if the latter makes a written request within the prescribed period after the copy is made.
- 15 (3) The amount of equitable remuneration is to be —
- (a) agreed between the body and the rights owner; or
 - (b) in default of agreement, decided by a Copyright Tribunal.

20 **Copyright not to vest by virtue of making copy for aiding persons with intellectual disabilities [54A(9); 7(3)(h)]**

- 208.**—(1) This section applies where a copy of an authorial work is made —
- (a) by or on behalf of a body administering an institution aiding persons with intellectual disabilities; and
 - 25 (b) for the sole purpose of aiding persons with intellectual disabilities (whether the aid is provided by the institution or not);
- (2) Despite any other provision of this Act, copyright does not vest in the person who made the copy just because the person made that
- 30 copy.

Copyright owner’s right to license not affected [54A(10)]

5 **209.** This Division does not affect the right of the owner of the copyright in an authorial work to grant a licence to a body administering an institution aiding persons with intellectual disabilities to make, or cause to be made, copies of the work.

*Division 6 — Public Collections:
Galleries, Libraries, Archives and Museums*

Definition: what is an article in a periodical publication [44]

10 **210.** In this Division, “article”, in relation to a periodical publication, means anything (other than an artistic work) appearing in the publication.

Public use and enjoyment — copying for public exhibition [new]

211.—(1) If the conditions in subsection (2) are met, it is a permitted use to make a copy of —

- 15 (a) an authorial work, a film or a sound recording; or
 (b) a recording of a protected performance.
- (2) The conditions are —
- (a) the work, film or recording is part of a public collection;
- 20 (b) the copy is made by or on behalf of the custodian of the public collection;
- (c) the copy is made for the purpose of an exhibition of the work, film or recording that is held —
- (i) by the custodian of the public collection; and
- 25 (ii) at any premises that is open to the public, whether for a fee or otherwise;
- (d) the copy is not used for any other purpose; and
- (e) before the copy was made, an authorised officer of the public collection —
- (i) made a reasonable investigation; and

- (ii) declared that he or she is satisfied that a new copy of the work, film or recording could not be obtained within a reasonable time at an ordinary commercial price.

5 **Public use and enjoyment — publicising public exhibition [new]**

212.—(1) If the conditions in subsection (2) are met, it is a permitted use to —

(a) make a copy of —

(i) an authorial work, a film or a sound recording; or

10 (ii) a recording of a protected performance; or

(b) communicate the copy to the public.

(2) The conditions are —

(a) the work, film or recording is part of a public collection;

15 (b) the copy is made or communicated by or on behalf of the custodian of the public collection;

(c) the copy is made or communicated, and supplied to the public, for the purpose of publicising an exhibition of the work, film or recording that is held —

(i) by the custodian of the public collection; and

20 (ii) at any premises that is open to the public, whether for a fee or otherwise;

(d) the copy was not used for any other purpose or sold as merchandise;

25 (e) the copy is not a reasonable substitute for the work, film or recording; and

(f) any fee charged for the copy (or any material that includes the copy) does not exceed the cost of making and supplying the copy (or any material that includes the copy) plus a reasonable contribution to the general expenses of the public collection.

30

(3) For the purposes of subsection (2)(e) —

(a) relevant factors include the extent of copying and any difference in quality between the copy and the work, film or recording that is copied; and

5 (b) a copy of the whole or substantially the whole of a film or recording is taken to be a reasonable substitute of the film or recording.

(4) Supplying a copy of an unpublished authorial work, film or recording in accordance with subsection (2) does not amount to the publication of the work, film or recording for the purposes of this Act.

10 **Public use and enjoyment — performing for public exhibition**
[new]

213.—(1) If the conditions in subsection (2) are met, it is a permitted use to perform in public, or to cause to be seen or heard (or both) in public —

15 (a) a literary, dramatic or musical work, a film or a sound recording; or

(b) a recording of a protected performance.

(2) The conditions are —

(a) the work, film or recording is part of a public collection;

20 (b) the performance was authorised by the custodian of the public collection; and

(c) the performance was for the purpose of an exhibition of the work, film or recording that is held —

(i) by the custodian of the public collection; and

25 (ii) at any premises that is open to the public, whether for a fee or otherwise.

Public use and enjoyment — making collection available online
within premises of public collection [45(7A), 113B, 7(1)]

30 **214.**—(1) If the conditions in subsection (2) are met, it is a permitted use to make available online —

(a) any of the following works:

- (i) an article in a periodical publication, if acquired in electronic form;
- (ii) a published authorial work, if acquired in electronic form;
- 5 (iii) an unpublished artistic work that is —
 - (A) in electronic form; or
 - (B) in 3 dimensions and represented in a visual image in electronic form;
- (iv) a film;
- 10 (v) a sound recording;
- (vi) an authorial work, a film or a sound recording that is or is part of online material copied from a Singapore website —
 - (A) by or on behalf of the National Library Board; and
 - 15 (B) for the purpose of acquiring the material for the purposes of section 6(*d*) of the National Library Board Act 1955; or
- (*b*) a recording of a protected performance.
- 20 (2) The conditions are —
 - (*a*) the work or recording is part of a public collection; and
 - (*b*) the work or recording is made available online —
 - (i) within the premises where the public collection is held;
 - 25 (ii) with the authority of the custodian of the public collection; and
 - (iii) in a way that users of the public collection cannot, by using any equipment supplied by the custodian of the public collection —
 - 30 (A) make an electronic copy of the work; or
 - (B) communicate the work.

(3) An unpublished artistic work is not to be treated as published for the purposes of this Act just because it was made available in circumstances to which this section applies.

5 (4) In this section, “online material” and “Singapore website” have the meanings given by section 2 of the National Library Board Act 1955.

Research and study — copying and communicating authorial works or recordings of performances for users of public collections [45]

10 **215.**—(1) If the conditions in subsection (2) are met, it is a permitted use to —

(a) make a copy of —

(i) an authorial work (or part of the authorial work); or

15 (ii) a recording of a protected performance (or part of the protected performance); or

(b) communicate the copy.

(2) The conditions are —

(a) either —

20 (i) the work or recording is published and is part of a public collection (other than a for-profit library); or

(ii) the work —

(A) is an unpublished artistic work;

(B) is part of a public collection (other than a for-profit library); and

25 (C) is, has been or will be exhibited at an exhibition held by the custodian of the public collection at any premises that is open to the public, whether for a fee or otherwise;

(b) the copy was made or caused to be made —

30 (i) by an authorised officer (X) of the public collection; and

- (ii) on a written request by a person (Y) to the custodian of the public collection for a copy of the work or recording (or of part of the work or recording) to be supplied to Y;
- 5 (c) the request includes a signed declaration by Y stating that —
 - (i) Y requires the copy for research or study and will not use it for any other purpose; and
 - (ii) either —
 - 10 (A) no authorised officer of the public collection had previously supplied Y with a copy of the work or recording (or the part of the work or recording) that Y requested for; or
 - (B) an authorised officer of the public collection had previously supplied Y with a copy of the work or recording (or the part of the work or recording) that Y requested for, but that copy has
15 been lost, destroyed or damaged;
- (d) either —
 - 20 (i) the request and declaration do not contain any materially false information; or
 - (ii) X does not know that the request and declaration contain any materially false information;
- (e) if the request is for copies of 2 or more articles in the same periodical publication — the articles relate to the same
25 subject-matter;
- (f) if the request is for a copy of the whole of a work (other than an article in a periodical publication) or recording, or for a portion of the work or recording that exceeds a reasonable
30 portion — before the copy was made, an authorised officer of the public collection —
 - (i) made a reasonable investigation; and

- (ii) declared that he or she is satisfied that a new copy of the work or recording could not be obtained within a reasonable time at an ordinary commercial price;
- (g) if the request is for an electronic copy —
- 5 (i) before or when the electronic copy is communicated to Y, Y is given a notice stating —
- (A) that the electronic copy was made under this section;
- (B) that the work may be subject to copyright, or that
10 the performance may be protected, under this Act; and
- (C) any prescribed matter; and
- (ii) as soon as practicable after the electronic copy is communicated to Y, the electronic copy made for the
15 purpose of communication is destroyed;
- (h) in the case of subsection (1)(a) — the copy is notated according to section 286;
- (i) the copy is not supplied to any person other than Y;
- (j) any fee for making and supplying the copy to Y does not
20 exceed the cost of making and supplying the copy plus a reasonable contribution to the general expenses of the public collection; and
- (k) no prescribed exclusion from this section applies.

Research and study — copying originals for use on premises of public collection [48(1)(a) and (4), 113(1)(a), (2)(a) and (4), 201(1) and (2)]

25 **216.**—(1) If the conditions in subsection (2) are met, it is a permitted use to make a copy of —

- (a) an authorial work, a film or a sound recording; or
30 (b) a recording of a protected performance.

(2) The conditions are —

- (a) a public collection has or used to have —
- (i) the original version of the work;
 - (ii) the first copy of the film;
 - (iii) the first record of the sound recording; or
 - 5 (iv) the first record of the recording of the performance,
as the case may be;
- (b) the copy is made by or on behalf of the custodian of the public collection;
- (c) before the copy was made, an authorised officer of the public
10 collection —
- (i) made a reasonable investigation; and
 - (ii) declared that he or she is satisfied that a new copy of the work or recording could not be obtained within a reasonable time at an ordinary commercial price;
- 15 (d) the copy is made for the purpose of carrying out research at any premises where any public collection is held; and
- (e) the copy is notated according to section 286.

(3) An unpublished authorial work, a film or a sound recording (including any work that is included in the film or recording) is not
20 to be treated as published for the purposes of this Act just because a copy of the work, film or recording was made by an authorised officer of a public collection and supplied to the custodian of another public collection in circumstances to which this section applies.

**Research and study — copying or communicating unpublished
25 theses in university libraries or archives [47(2), 50]**

217.—(1) Making a copy of, or communicating, a thesis or a similar literary work is a permitted use if —

- (a) the original version or a copy of the thesis or work is kept in a university library (or similar institution) or an archive;
- 30 (b) the thesis or work has not been published;

- (c) the making of the copy, or the communication, was done by or on behalf of the custodian of the library or archive;
- (d) the copy, thesis or work was communicated or otherwise supplied to a person who needs it for the purpose of research or study; and
- (e) an authorised officer of the library or archive is satisfied that the person needs the copy, thesis or work for that purpose.

(2) For the purposes of this section, where a literary work is accompanied by an explanatory or illustrative artistic work, the artistic work is taken to be part of the literary work.

Research, study and publication — copying or communicating unpublished old material in public collections [47(1), 112]

218.—(1) In this section and section 219, an authorial work, a film, a sound recording or a recording of a protected performance is “unpublished old material in a public collection” if —

- (a) the work, film or recording has not been published;
- (b) the original version or a copy of the work, a copy of the film, or a record embodying the recording —
 - (i) is part of a public collection; and
 - (ii) is, subject to any regulations governing that collection, open to public inspection;
- (c) in the case of an authorial work —
 - (i) more than 75 years have passed —
 - (A) since the work was made; or
 - (B) if the work was made over a period — since the end of that period; and
 - (ii) the author of the work has died and more than 50 years have passed since the end of the calendar year in which the author died;
- (d) in the case of a film or recording —

(i) more than 50 years have passed since the film or recording was made; or

(ii) if the film or recording was made over a period — more than 50 years have passed since the end of that period

5

(2) Making a copy of, or communicating, any unpublished old material in a public collection is a permitted use if the copy or communication —

(a) is made for the purpose of research or study;

10

(b) is made with a view to publishing the material; or

(c) is made by an authorised officer of the public collection and supplied to a person, and the officer is satisfied that the person —

15

(i) needs the copy or the material for research or study, or with a view to publication; and

(ii) will not use it for any other purpose.

Publication — publishing works that include unpublished authorial works in public collections [49(1) and (2)]

219.—(1) It is a permitted use of an authorial work (called in this section the old work) to publish another authorial work (called in this section the new work) that includes the old work (or any part of the old work) if —

20

(a) immediately before the new work was first published —

25

(i) the old work was unpublished old material in a public collection; and

(ii) the publisher of the new work did not know who owns the copyright in the old work; and

(b) before the new work was first published, the prescribed notice of intended publication had been given.

30

(2) To avoid doubt, if —

- (a) the first publication of the new work only includes part of the old work; and
- (b) a subsequent publication of the new work includes any other part of the old work that was not included in an earlier publication;

then —

- (c) subsection (1) does not apply to the subsequent publication just because it applied to the first publication; and
- (d) the subsequent publication is to be treated as the first publication of the new work for the purposes of applying subsection (1).

(3) Where an authorial work, being unpublished old material in a public collection, is published in circumstances to which subsection (1) applies, the publication is deemed to be authorised.

Publication — communicating, performing, etc., work published under section 219 [49(3)]

220.—(1) This section applies where, by virtue of section 219, the publication of an authorial work (or part of the authorial work) is a permitted use.

(2) The following acts are also permitted uses if they are done after the publication:

- (a) broadcasting the work (or part of the work);
- (b) including the work (or part of the work) in a cable programme;
- (c) performing the work (or part of the work) in public;
- (d) making a record of the work (or part of the work).

Preservation and replacement — making copies of certain works and recordings of performances in public collection [48(1), (2) and (3), 113(1), (2) and (3), 201(1) and (2)]

221.—(1) If the conditions in subsection (2) are met, it is a permitted use to make a copy of —

- (a) an authorial work, a film or a sound recording; or
- (b) a recording of a protected performance.

(2) The conditions are —

- 5 (a) the work, film or recording was or is part of a public collection;
- (b) the copy was made by or on behalf of the custodian of the public collection;
- (c) the copy was —
 - 10 (i) made to preserve the work, film or recording against loss, deterioration or damage;
 - (ii) made in a different format from the format in which work, film or recording is embodied, to preserve the work, film or recording against the obsolescence of the latter format;
 - 15 (iii) made to replace the work, film or recording because of loss, deterioration or damage; or
 - (iv) made for some other purpose;
- (d) if the copy was made under paragraph (c)(i) or (ii) — the copy is not made accessible to the public, except to replace a
20 copy of the work, film or recording that was previously accessible to the public;
- (e) if the copy was made under paragraph (c)(i), (ii) or (iii) — before the copy was made, an authorised officer of the public collection —
 - 25 (i) made a reasonable investigation; and
 - (ii) declared that he or she is satisfied that a new copy of the work, film or recording (or, in the case of paragraph (c)(ii), a new copy of the work in the different format) could not be obtained within a
30 reasonable time at an ordinary commercial price; and
- (f) if the copy was made under paragraph (c)(iv) — the copy is the sole copy made under this section; and

(g) the copy is notated according to section 286.

Administration — making copies of certain works and recordings of performances in public collection [new]

5 **222.** Making a copy of an authorial work, a film, a sound recording, or a recording of a protected performance is a permitted use if —

- (a) the work, film or recording was or is part of a public collection;
- (b) the copy was made by or on behalf of the custodian of the public collection;
- 10 (c) the copy was made for any of the following purposes:
 - (i) internal record-keeping;
 - (ii) internal cataloguing;
 - (iii) insurance;
 - (iv) police investigations or other law enforcement
 - 15 actions;
 - (v) security;
 - (vi) any another administrative purpose; and
- (d) the copy is not used other than —
 - (i) for the purposes mentioned in paragraph (c); or
 - 20 (ii) to create another copy of the work, film or recording in circumstances to which any exception in this Division applies.

Supplying copies of published literary, dramatic or musical works or articles between libraries and archives [46, 201(1)]

25 **223.—(1)** This section applies if —

- (a) a copy was made of —
 - (i) a published literary, dramatic or musical work (or part of the work); or

- (ii) an article in a periodical publication (or part of the article);
 - (b) the copy was made or caused to be made —
 - (i) by an authorised officer of library X; and
 - 5 (ii) on a written request by or on behalf of an authorised officer of library Y (which may be within or outside Singapore);
 - (c) the copy was requested for the purpose of —
 - 10 (i) including the copy in the collection of library Y, but not as a substitute for subscribing to or buying the work or periodical publication; or
 - (ii) supplying the copy to a person who has requested for the copy under section 215;
 - (d) the copy is notated according to section 286;
 - 15 (e) the copy was supplied to the authorised officer of library Y and to no other person;
 - (f) any fee for making and supplying the copy does not exceed the cost of making and supplying the copy plus a reasonable contribution to the general expenses of library X; and
 - 20 (g) no prescribed exclusion applies.
- (2) Where this section applies —
- (a) no action may be brought against library X or any of its officers or employees for any infringement of copyright constituted by the making and supply of the copy;
 - 25 (b) the copy is deemed for all purposes of this Act to have been made by an authorised officer of library Y (and not library X) for the purposes for which it was requested; and
 - (c) the making of the copy by an authorised officer of library Y (as deemed by paragraph (b)) is a permitted use if, as soon as practicable after the request in subsection (1)(b)(ii) was made, an authorised officer of library Y made a declaration stating —
 - 30

- (i) the particulars of the request, including the purpose for requesting the copy;
 - (ii) if the copy is requested for inclusion in the collection of library Y and a similar copy has previously been made and supplied under this section — that the previous copy had been lost, destroyed or damaged; and
 - (iii) if the copy requested for is a copy of the whole of an authorial work (other than an article in a periodical publication) or a portion of the work that exceeds a reasonable portion —
 - (A) that the copy was made and supplied as part of an inter-library arrangement; and
 - (B) that the arrangement does not have the effect or the purpose of enabling participating libraries to systematically copy and supply copies of works, and thereby obtain copies of whole works or parts thereof without having to subscribe to or buy the works.
- (3) In this section —
- (a) “library” means a non-profit library, and includes a non-profit archive; and
 - (b) where a literary, dramatic or musical work (or article in a periodical publication) is accompanied by an explanatory or illustrative artistic work, the artistic work is taken to be part of the literary, dramatic or musical work (or article).

Protection of libraries and archives when infringing copies made on machines installed by them [34, 105A, 7(3)(b) and (f)]

224.—(1) This section applies where —

- (a) a machine is installed by or with the approval of the custodian of a library —
 - (i) on the premises of the library; or

- (ii) outside the premises of the library, but for the convenience of persons using the library;
- (b) a notice in the prescribed form and dimensions is placed on or near the machine, in a way that is readily visible to a person using the machine; and
- (c) either —
- (i) the machine is for making facsimile copies of documents (whether or not in the same size or form), and a person uses the machine to make an infringing copy of an authorial work (or part of the authorial work), or a published edition of an authorial work (or part of the authorial work); or
- (ii) a person uses the machine to make an infringing copy of —
- (A) a sound recording, a film, a sound broadcast, a television broadcast, or a cable programme; or
- (B) a protected performance.

(2) The custodian of the library and the officer mentioned in subsection (1)(a) are not taken to have authorised the making of the infringing copy just because the infringing copy was made on the machine.

(3) In this section —

“library” includes an archive;

“machine” includes a computer.

**25 Copying online material for National Library Board collection
[49A, 113A]**

225.—(1) Where an authorial work, a film, a sound recording or a recording of a protected performance is or is part of online material, copying the online material is a permitted use of the work, film or recording if —

- (a) the online material is available on a Singapore website; and
- (b) the copying is done —

- (i) by or on behalf of the National Library Board; and
- (ii) for the purpose of acquiring the online material for the purposes of section 6(d) of the National Library Board Act 1955.

5 (2) In this section, “online material” and “Singapore website” have the meanings given by section 2 of the National Library Board Act 1955.

Division 7 — Use of Computer Programs

Making back-up copy of computer program [39(1), (2) and (5)]

10 **226.**—(1) It is a permitted use of a computer program to make a reproduction of the program, or of another program that is an adaptation of the program, if —

(a) the reproduction is not made from an infringing copy of the program; and

15 (b) the reproduction is made —

(i) by or on behalf of the owner of the copy of the program from which the reproduction is made; and

(ii) only for the purpose of being used by or on behalf of the owner if that copy is lost, destroyed or cannot be used.

20

(2) In this section, a reference to a copy of a computer program is a reference to any article in which the computer program is reproduced in a material form.

Copying computer program or electronic compilation when essential for use [39(3) and (5)]

25

227.—(1) If the conditions in subsection (2) are met, it is a permitted use for a person (X) to make, or authorise the making of, a copy or an adaptation of —

(a) a compilation in an electronic form; or

30 (b) a computer program.

(2) The conditions are —

- (a) the copy or adaptation is made from a copy of the compilation or program that is owned by X;
 - (b) creating the copy or adaptation is an essential step in using the compilation or program with a machine; and
 - 5 (c) the copy or adaptation is not used in any other way.
- (3) In this section —
- (a) a reference to a copy of a compilation or computer program is a reference to any article in which the compilation or program is reproduced in a material form; and
 - 10 (b) a reference to an adaptation of a compilation or computer program is a reference to any article in which the adaptation is reproduced in a material form.

Decompilation of computer program by lawful user [39A(1), (2) and (6)]

- 15 **228.**—(1) It is a permitted use for a person (X) to decompile a computer program if —
- (a) the program is expressed in a low-level language;
 - (b) X is a lawful user of the program;
 - 20 (c) the decompiling is necessary to obtain the information needed for the purpose of creating an independent computer program that can be operated with the decompiled program or another computer program;
 - (d) the information needed for that purpose is not otherwise readily available to X;
 - 25 (e) X confines the decompiling to acts that are needed for that purpose;
 - (f) X does not use the information obtained from decompiling for anything other than that purpose;
 - 30 (g) X does not supply the information obtained from decompiling to any person unless it is necessary for that purpose;

(h) X does not use the information obtained from decompiling to create a computer program that is substantially similar in its expression to the decompiled program; and

5 (i) X does not use the information obtained from decompiling to do any act that is otherwise restricted by copyright.

(2) In this section —

“decompiling”, in relation to a computer program expressed in a low level language, means —

10 (a) converting the program into a version expressed in a higher level language; or

(b) copying the program incidentally in the course of paragraph (a);

“decompile” has a corresponding meaning.

15 **Observing, studying and testing of computer program by lawful user [39B(1)]**

229. It is a permitted use for a person (X) to observe, study or test the functioning of a computer program if —

(a) X is a lawful user of the program; and

(b) the observing, studying or testing is done —

20 (i) to determine the ideas and principles that underlie any element of the program; and

(ii) while X is performing any act of loading, displaying, running, transmitting or storing the program that X is entitled to do.

25 **Copying or adapting of computer program by lawful users [39C]**

230.—(1) Subject to subsection (2), it is a permitted use for a person (X) to make a copy or adaptation of a computer program if —

(a) X is a lawful user of the program; and

30 (b) the copying or adapting is necessary for X’s lawful use.

(2) Subsection (1) does not apply to any copying or adapting permitted under section 226, 227 or 228.

(3) To avoid doubt, it may be necessary for the lawful use of a computer program to copy or adapt the program to correct errors in the program.

Who is a lawful user [39A(5)]

231. In this Division, a person is a lawful user of a computer program if the person has a right to use the program, whether under a licence to do any act restricted by the copyright in the program or otherwise.

Division 8 — Computational data analysis

Definition: what is computational data analysis [new]

232. In this Division, “computational data analysis”, in relation to any work, includes —

- (a) using a computer program to identify, extract and analyse information or data from the work; and
- (b) using the work as an example of a type of information or data to improve the functioning of a computer program in relation to that type of information or data.

Illustration

An example of computational data analysis under paragraph (b) is the use of images to train a computer program to recognise images.

Making reproductions or copies for computational data analysis [new]

233.—(1) If the conditions in subsection (2) are met, it is a permitted use for a person (X) to —

- (a) make a reproduction of —
 - (i) any work; or
 - (ii) a recording of a protected performance; or

(b) communicate the reproduction to the public.

(2) The conditions are —

(a) the reproduction was made for the purpose of —

(i) computational data analysis; or

5 (ii) preparing the work for computational data analysis;

(b) X does not use the reproduction for any other purpose;

(c) X does not supply (whether by communication or otherwise) the reproduction to any person other than for the purpose of —

10 (i) verifying the results of the computational data analysis carried out by X; or

(ii) collaborative research and study relating to the purpose of the computational data analysis carried out by X;

15 (d) X had lawful access to the work (including a reproduction of the work) or recording from which the reproduction was made (called in this section the original); and

(e) one of the following conditions is satisfied:

(i) the original is not an infringing copy;

20 (ii) the original is an infringing copy but —

(A) X does not know this; and

25 (B) if the original is obtained from an online location that is being or has been used to flagrantly commit or facilitate rights infringements (whether or not an order has been made in relation to that location under section 310, or an infringement action brought under section 141 or 142) — X does not know and had no reason to believe that;

30 (iii) the original is an infringing copy but —

- (A) the use of infringing copies is necessary for the purpose for which X is carrying out computational data analysis; and
- (B) X does not use the reproduction to carry out computational data analysis for any other purpose.

Illustrations

X does not have lawful access to the original if X accessed the original by circumventing paywalls or in breach of the terms of use of a database.

If X is carrying out computational data analysis for the purpose of research and study into copyright infringement, the use of reproductions that are infringing copies could be necessary for that purpose.

(3) To avoid doubt, a reference in subsection (1) to making a reproduction or copy includes a reference to storing or retaining the reproduction or copy.

(4) In this section, “reproduction” includes copy.

Division 9 — Communication of Sound Recordings and Recordings of Protected Performances

Definition: what is an interactive service [81(1)]

234. In this Division, “interactive service” —

(a) means a service that enables an individual to receive —

(i) a transmission of a programme specially created for that individual; or

(ii) on request, a transmission of a particular sound recording (including a recording of a protected performance), whether or not as part of a programme, that is selected by or on behalf of that individual;

(b) includes a service —

(i) that enables an individual to request that a particular sound recording (including a recording of a protected performance) be performed for reception —

- (A) by the public at large; or
- (B) in the case of a subscription service — by all subscribers of that service; and
- (ii) where the programming on each channel of the service consists substantially of sound recordings (including recordings of protected performances) that are performed either within an hour of the request or at a time designated by that individual; but
- (c) does not include a service to which paragraph (b)(i) applies but not paragraph (b)(ii).

Communication by analogue broadcast [new]

235. It is a permitted use for a person (X) to communicate a sound recording or a recording of a protected performance by means of an analogue broadcast if —

- (a) the recording is not commercially published; or
- (b) the recording is commercially published and X pays to the rights owner equitable remuneration of an amount —
 - (i) agreed between them; or
 - (ii) in default of agreement, decided by a Copyright Tribunal.

Communication by non-interactive digital broadcast [new]

236.—(1) It is a permitted use for a person (X) to communicate a sound recording or a recording of a protected performance if —

- (a) the communication is by means of a digital broadcast that —
 - (i) is not part of an interactive service; and
 - (ii) is available to the public free of charge; and
- (b) either —
 - (i) the recording is not commercially published; or

(ii) the recording is commercially published and X pays to the copyright owner equitable remuneration of an amount —

(A) agreed between them; or

5 (B) in default of agreement, decided by a Copyright Tribunal.

(2) It is a permitted use for a person (X) to communicate a sound recording or a recording of a protected performance if —

(a) the communication is by means of a digital broadcast that —

10 (i) is not part of an interactive service; and

(ii) is not available to the public free of charge; and

(b) X pays to the copyright owner equitable remuneration of an amount —

(i) agreed between them; or

15 (ii) in default of agreement, decided by a Copyright Tribunal.

Communication by other analogue or non-interactive digital transmission [new]

20 **237.** It is a permitted use for a person (X) to communicate a sound recording or a recording of a protected performance if —

(a) the communication is an analogue transmission (but not an analogue broadcast); or

25 (b) the communication is a digital transmission (but not a digital broadcast) that is not part of an interactive service, and X pays to the copyright owner equitable remuneration of an amount —

(i) agreed between them; or

(ii) in default of agreement, decided by a Copyright Tribunal.

*Division 10 — Films***Films depicting historical events [108(1)]**

238.—(1) This section applies where —

- 5 (a) the visual images that form part of a film consist wholly or mainly of images that, when they were first embodied in an article or a thing, were means of communicating news; and
- (b) 50 years have passed since the end of the calendar year during which the main events depicted in the film occurred.
- (2) Causing a film to be seen or heard (or both) in public is a permitted use of —
- 10 (a) the film; and
- (b) the sound recording embodied in any sound-track of the film.

Using record of sounds in films [108(2)]

239.—(1) This section applies where —

- 15 (a) the sounds embodied the sound-track of a film are also embodied in a record; and
- (b) the record is not the sound-track or derived, directly or indirectly, from the sound-track.
- (2) Any use of the record is a permitted use of the film.

20 *Division 11 — Broadcasting, Cable Programmes, and Simulcasting*

Reproducing literary, dramatic and musical works for broadcasting [43]

240. It is a permitted use of a literary, dramatic or musical work for a person (X) to make a sound recording or film of the work or of an adaptation of the work if —

25

- (a) the recording or the film is made for the sole purpose of broadcasting the work or adaptation;
- (b) X would not infringe the copyright in the work by broadcasting the work or adaptation;

- (c) the record embodying the recording, or the copy of the film, is used only —
- (i) for the purpose of broadcasting the work or adaptation in circumstances that do not infringe the copyright in the work; or
 - (ii) to make further records or copies for that purpose;
- (d) if X is not the person broadcasting the work or adaptation —
- (i) X has paid to the copyright owner an amount agreed between them for the making of the recording or film; or
 - (ii) X undertakes in writing to pay the copyright owner the amount that a Copyright Tribunal decides is equitable remuneration for the making of the recording or film; and
- (e) within the prescribed period, every record embodying the recording or every copy of the film made under this section is —
- (i) delivered to the National Archives of Singapore with the consent of the Director of National Archives; or
 - (ii) destroyed.

Reproducing artistic works for television broadcasting or cable programmes [68]

241. It is a permitted use of an artistic work for a person (X) to make a film of the work if —

- (a) the film is made for the sole purpose of including the work in a television broadcast or cable programme;
- (b) X would not infringe the copyright in the work by including it in a television broadcast or cable programme;
- (c) the copy of the film is used only —
 - (i) for the purpose of including the work in a television broadcast or cable programme in circumstances that do not infringe the copyright in the work; or

- (ii) to make further copies for that purpose;
- (d) if X is not the maker of the television broadcast or cable programme —
 - (i) X has paid to the copyright owner an amount agreed between them for the making of the film; or
 - (ii) X undertakes in writing to pay the copyright owner the amount that a Copyright Tribunal decides is equitable remuneration for the making of the film; and
- (e) within the prescribed period, every copy of the film made under this section is —
 - (i) delivered to the National Archives of Singapore with the consent of the Director of National Archives; or
 - (ii) destroyed.

Making copies of sound recordings or recordings of performances for broadcasting [107 (except 2A)]

- 242.**—(1) If the conditions in subsection (2) are met, it is a permitted use for a person (X) to make a copy of —
- (a) a sound recording; or
 - (b) a recording of a protected performance.
- (2) The conditions are —
- (a) the copy is made for the sole purpose of broadcasting the recording;
 - (b) the copy is used only —
 - (i) for the purpose of broadcasting the recording in circumstances that do not infringe the copyright in the recording; or
 - (ii) to make further copies for that purpose;
 - (c) if X is not the person broadcasting the recording —
 - (i) X has paid to the rights owner an amount agreed between them for the making of the copy; or

(ii) X undertakes in writing to pay the rights owner the amount that a Copyright Tribunal decides is equitable remuneration for the making of the copy; and

(d) within the prescribed period, every copy made under this section is —

(i) delivered to the National Archives of Singapore with the consent of the Director of National Archives; or

(ii) destroyed.

Checking whether broadcast of sound recording or of recording of performance is lawful [107(2A)]

243.—(1) This section applies where a sound recording or a recording of a protected performance is intended for broadcast or is broadcast.

(2) The following acts are permitted uses of the recording if they are done for the purpose of checking whether the broadcast or intended broadcast complies with any written law administered by a statutory authority:

(a) making a copy of the recording for the authority;

(b) supplying a copy of the recording to the authority;

(c) using a copy of the recording, whether by the authority or any of its authorised officers.

Reproducing literary, dramatic or musical work for simulcasting [43A, 7(1)]

244.—(1) It is a permitted use of a literary, dramatic or musical work for a person (X) to make a sound recording or film of the work or of an adaptation of the work if —

(a) the recording or the film is made for the sole purpose of simulcasting the work or adaptation in digital form;

(b) broadcasting the work or adaptation would not infringe the copyright in the work; and

(c) the record embodying the recording, or the copy of the film, is used only —

(i) for the purpose of simulcasting the work or adaptation in circumstances that do not infringe the copyright in the work; or

(ii) to make further records or copies for that purpose;

(d) every record embodying the recording, and every copy of the film, made under this section is destroyed within the prescribed period.

(2) In this section and section 245, “simulcasting” means simultaneously broadcasting in both analogue form and digital form.

Copying sound recording, recording of performance, or film for simulcasting [107A]

245.—(1) If the conditions in subsection (2) are met, it is a permitted use to make a copy of —

(a) a sound recording or film; or

(b) a recording of a protected performance.

(2) The conditions are —

(a) the copy is made for the sole purpose of simulcasting the recording or film in digital form;

(b) broadcasting the recording or film would not infringe the copyright in the recording or film;

(c) the copy is used only —

(i) for the purpose of simulcasting the recording or film without committing a rights infringement in relation to the recording or film; or

(ii) to make further copies for that purpose; and

(d) every copy of the recording or film made under this section is destroyed within the prescribed period.

Filming or recording broadcasts or cable programmes for private and domestic use [114]

5 **246.**—(1) It is a permitted use of a television broadcast or cable programme for a person to make a film of the broadcast or programme for his or her own private and domestic use.

(2) It is a permitted use of a sound broadcast, television broadcast cable programme or protected performance for a person to make a sound recording of the broadcast or programme for his or her own private and domestic use.

10 (3) A permitted use of a sound broadcast, television broadcast or cable programme under subsection (1) or (2) is also a permitted use of any work, or any recording of a protected performance, included in the broadcast or programme.

15 (4) For the purposes of this section, a film or recording is not made for private and domestic use if the film or recording is made for the purpose of —

- (a) sale or letting for hire;
- (b) broadcasting or inclusion in a cable programme; or
- (c) causing it to be seen or heard in public.

20 **Reception of broadcasts or cable programmes [199(1)]**

247.—(1) It is a permitted use of a literary, dramatic or musical work for a person to —

- (a) receive a television or sound broadcast or a cable programme; and
- 25 (b) thereby cause the work or an adaptation of the work to be seen or heard (or both) in public.

(2) It is a permitted use of a sound recording or a recording of a protected performance for a person to —

- 30 (a) receive a television or sound broadcast or a cable programme; and
- (b) thereby cause the recording to be heard in public.

Deemed copyright licences when receiving or transmitting broadcasts or cable programmes [199(2) to (7)]

248.—(1) A person is deemed to have the licence of the copyright owner of a film to —

- 5 (a) cause the film to be seen or heard (or both) in public by receiving a television broadcast or cable programme; and
- (b) cause the film to be included in a programme in a cable programme service by receiving and immediately re-transmitting a Singapore television or sound broadcast.

10 (2) A person is deemed to have the licence of the copyright owner of a sound recording to —

- (a) cause the recording to be heard in public by receiving a television broadcast, sound broadcast or cable programme; and
- 15 (b) cause the recording to be included in a programme in a cable programme service by receiving and immediately re-transmitting a Singapore television or sound broadcast.

 (3) A person is deemed to have the licence of the copyright owner of an authorial work (or of an adaptation of the work) to cause the work (or that adaptation) to be included in a programme in a cable programme service by receiving and immediately re-transmitting a Singapore television or sound broadcast.

20

 (4) To avoid doubt, subsections (1)(b), (2)(b) and (3) do not extend to making the film, recording, work or adaptation available on the Internet.

25

 (5) If the broadcast or cable programme mentioned in subsection (1), (2) or (3) is not made by or with the licence of the relevant copyright owner —

- 30 (a) this does not prevent any of those provisions from applying; but
- (b) the acts that are licensed by those provisions must be taken into account in assessing damages for any infringement of the copyright by the maker of the broadcast or programme.

(6) In this section, a broadcast is a Singapore broadcast if it is made from a place in Singapore by the holder of a broadcasting licence.

Division 12 — Making Musical Records

Interpretation and scope of this Division [55 and 62(1)]

5 **249.**—(1) In this Division —

“musical work” means a musical work in its original form or an adaptation of the work;

10 “owner”, in relation to the copyright in a literary, dramatic or musical work, means, unless the contrary intention appears, the person who is entitled to authorise the making in, and the importation into, Singapore of records of the works;

“record”, in relation to a musical work, excludes a sound-track of a film;

15 “sale by retail” or “retail sale”, in relation to a record, does not include —

(a) sale for a consideration that does not consist wholly of money; or

(b) sale by a person who does not ordinarily carry on the business of making or selling records.

20 (2) In this Division, where a musical work is comprised partly in one record and partly in another record or other records, all the records are treated as a single record.

25 (3) Subject to section 250(4), this Division applies in relation to a record of a part of a musical work as it applies in relation to a record of the whole of the work.

Conditions for making musical records [56 except (3), 61, 62(2)]

250.—(1) Subject to subsections (2) and (3), it is a permitted use of a musical work for a person (X) to make a record of the work (or of an adaptation of the work) if —

30 (a) the record is made in Singapore;

- (b) other records of the work (or of a similar adaptation of the work) have previously been made in Singapore or imported into Singapore —
- (i) for retail sale or for making further records for retail sale; and
 - (ii) by or with the licence of the copyright owner;
- (c) before making the record, X gave the prescribed notice to the copyright owner;
- (d) X intends to —
- (i) sell the record by retail;
 - (ii) supply the record to another person for it to be sold by retail; or
 - (iii) use the record to make other records to be sold by retail or supplied to other persons to be sold by retail; and
- (e) in the case of paragraph (d)(i) or (ii), X pays to the copyright owner the prescribed royalty in the prescribed manner and within the prescribed time.
- (2) Subsection (1)(b) is deemed to be satisfied if X or any person that has made an agreement with X for the making and supply of the record —
- (a) makes the prescribed inquiries; and
 - (b) receives no answer within the prescribed period.
- (3) Subsection (1) does not apply to making a record of an adaptation of a musical work if the adaptation debases the work.
- (4) Subsection (1) does not apply in relation to —
- (a) a record of the whole of a musical work unless the previous records referred to subsection (1)(b) are records of the whole of the work; and
 - (b) a record of a part of a musical work unless that previous record was a record of, or included, that part of the work.

Conditions for including literary or dramatic work in musical record [60(1), 61]

251.—(1) This section applies where —

- 5 (a) a person (X) makes a record of the performance of a musical work; and
- (b) in the recorded performance, some or all of the words of a literary or dramatic work are sung, or spoken, incidentally to or in association with the music.
- 10 (2) The making of the record is a permitted use of the literary or dramatic work if —
- (a) the record is made in Singapore;
- (b) any copyright in the musical work is not infringed by virtue of section 250;
- 15 (c) records of the musical work have previously been made in Singapore or imported into Singapore —
- (i) for retail sale or for making other records for retail sale; and
- (ii) by or with the licence of the owner of the copyright in the literary or dramatic work;
- 20 (d) in those other records, the words mentioned in subsection (1) or substantially similar words were sung, or spoken, incidentally to or in association with the music;
- (e) before making the record, X gave the prescribed notice to the owner of the copyright in the literary or dramatic work; and
- 25 (f) X pays to the owner of the copyright in the literary or dramatic work the prescribed royalty in the prescribed manner and within the prescribed time.
- (3) Subsection (2)(b) and (c) is deemed to be satisfied if X or the person selling the record —
- 30 (a) makes the prescribed inquiries; and
- (b) receives no answer within the prescribed period.

Regulations and inquiry on amount of royalties [59]

5 **252.**—(1) The Minister may make regulations to prescribe the royalty payable to a copyright owner under this Division, including any minimum royalty and any circumstances in which no royalty or no further royalty needs to be paid or apportioned.

(2) The Minister may request a Copyright Tribunal to inquire into and report on whether the royalty prescribed under subsection (1) is equitable, whether generally or for a class of records.

10 (3) Where a report is made under subsection (2) in respect of a class of records (whether or not the report is confined to those records), the Minister may not request another inquiry in respect of that class of records within 5 years after the report is made.

15 (4) To avoid doubt, the power to make regulations under subsection (1) does not depend on and is not confined by subsections (2) and (3).

(5) In this section, “Minister” means the Minister charged with the responsibility for trade and industry.

Regulations on other matters [56(3), parts of 59]

20 **253.**—(1) Regulations may prescribe any matter for the purpose of this Division other than matters that may be prescribed under section 252.

(2) Without limiting subsection (1), regulations under that subsection may prescribe —

25 (a) the manner in which, and the time within which, the royalty for a record must be paid;

(b) that the royalty (or any part of the royalty) for a record is to be paid before the record is sold or supplied by the person making the record;

30 (c) that the royalty for a record is deemed to be paid by doing —
 (i) a specified act that the Minister considers convenient for ensuring that the copyright owner receives the royalty; or

- (ii) a specified act that the Minister considers reasonable if the copyright owner cannot be found by reasonable inquiry; and
- (d) any other circumstances in which the royalty is deemed to be paid.

Division 13 — Artistic Works

Buildings and certain artistic works in public places [63, 64, part of 66 and 67]

254.—(1) This section applies to the following artistic works:

- (a) a building or a model of a building;
- (b) the following works, if they are located in a public place (other than temporarily) or in premises open to the public:
 - (i) a sculpture;
 - (ii) an authorial work under paragraph (a)(iii) of the definition of “artistic work” in section 19(1).

(2) It is a permitted use of the work to —

- (a) make or publish a painting, drawing, engraving or photograph of the work;
- (b) include the work in a film or publishing the film; or
- (c) include the work in a television broadcast or cable programme.

Incidental inclusion in film, television broadcast or cable programme [65, part of 66 and 67]

255.—(1) If the condition in subsection (2) is met, it is a permitted use of an artistic work to —

- (a) include the work in a film, television broadcast or cable programme; or
- (b) publish a film that includes the work.

(2) The inclusion must be only incidental to the main content of the film, broadcast or programme.

Reproduction of artistic work in different dimensions [69]

256.—(1) Subject to subsection (2), it is a permitted use of an artistic work to —

- 5 (a) if the work is 2-dimensional — make a 3-dimensional object of any kind; and
- (b) if the work is 3-dimensional — make a 2-dimensional object of any kind.

(2) The object must not appear, to persons who are not experts in objects of that kind, to be a reproduction of the work.

10 Reproduction of part of work in later work [71]

257.—(1) It is a permitted use of an artistic work to make a later artistic work if —

- (a) both works are made by the same author; and
- 15 (b) the later work does not repeat or imitate the main design of the earlier work.

(2) Subsection (1) applies even if —

- (a) part of the earlier work is reproduced in the later work; or
- 20 (b) in making the later work, the author used a mould, cast, sketch, plan, model or study made for the purposes of the earlier work.

Reconstruction of buildings [72]

258.—(1) It is a permitted use of a building to reconstruct the building.

25 (2) It is a permitted use of architectural drawings or plans to reconstruct a building according to those drawings or plans if —

- (a) another building has earlier been constructed according to those drawings or plans; and
- (b) the earlier construction was done by or with the consent of the copyright owner.

Division 14 — Artistic Works that have Corresponding Designs or are Industrially Applied

Interpretation of this Division [73]

259. In this Division, unless the context otherwise requires —

- 5 “corresponding design”, in relation to an artistic work, has the meaning given by 2(1) of the Registered Designs Act 2000;
- “device for projecting a non-physical product” has the meaning given by section 2(3) of the Registered Designs Act 2000;
- 10 “exclusive rights”, in relation to a design that is or could have been under the Registered Designs Act 2000, means all the exclusive rights that the registration of a design under that Act gives or would give to the registered owner of the design;
- “non-physical product” has the meaning given by section 2(1) of the Registered Designs Act 2000;
- 15 “register” means register under the Registered Designs Act 2000;
- “registered design” means a design that is registered under the Registered Designs Act 2000;
- 20 “similar design”, in relation to a corresponding design, means a design that consists of the corresponding design with modifications or variations not sufficient to alter the character or substantially to affect the identity of the corresponding design.

Purpose of this Division [74(1) and (1A)]

25 **260.** The purpose of this Division is to restrict the application of copyright law in relation to an artistic work with a corresponding design that is, has been or could be applied to —

- (a) articles, or non-physical products, under the Registered Designs Act 2000; or
- (b) useful articles.

Artistic work with corresponding design that is or was registered under Registered Designs Act 2000 [74(1) and (1A)]

5 **261.**—(1) This section applies where there is, in relation to an artistic work, a corresponding design that is or is deemed to be registered.

(2) Subject to section 262, it is a permitted use of the artistic work to —

- (a) while the registration is still in force — do any act that is within the exclusive rights in the corresponding design; or
- 10 (b) after the registration is no longer in force —
- (i) do any act that would have been within the exclusive rights in the corresponding design if the design had been registered in respect of all the articles and non-physical products to which it was capable of being applied; or
- 15 (ii) do any act that would have been within the exclusive rights in any possible similar design if all possible similar designs had been registered in respect of all the articles and non-physical products to which they were capable of being applied.
- 20

Modification of section 261 if registration is false [Schedule]

262.—(1) Section 261(2) does not apply in any proceedings for an infringement of the copyright in the artistic work if —

- (a) the registration of the corresponding design is still in force before the proceedings commenced; and
- 25 (b) it is proved or admitted in those proceedings that —
- (i) the person registered or deemed to be registered as the owner of the design is not in fact —
- (A) the owner of the design for the purposes of the Registered Designs Act 2000; or
- 30

(B) the proprietor of the design for the purposes of the Registered Designs Act 1949 of the United Kingdom (U.K. 1949, c. 88); and

5 (ii) the person was registered as the owner or proprietor of the design without the knowledge of the owner of the copyright in the artistic work.

(2) Despite subsection (1), section 261(2) still applies to an act to which those proceedings relate if it is proved or admitted in those proceedings that the act was done —

10 (a) under an assignment made, or licence granted, by the registered owner of the design;

(b) in good faith in reliance upon the registration; and

15 (c) without notice of any proceedings for the cancellation or revocation of the registration (as the case may be) or for rectifying the entry in the relevant register of designs.

(3) If section 261(2) does not apply to any proceedings by virtue of subsection (1), nothing in any law relating to industrial design is to be construed as affording a defence in those proceedings.

20 **Artistic work with industrially-applied corresponding design that could have been registered under Registered Designs Act 2000 [74(2) to (7)]**

263.—(1) This section applies where —

(a) there is copyright in an artistic work;

(b) there is a corresponding design in relation to the work;

25 (c) the corresponding design is applied industrially, whether in Singapore or elsewhere, to articles or non-physical products;

(d) the industrial application is done by or with the consent of the copyright owner;

30 (e) those articles or products, or devices for projecting those products, are commercially dealt with; and

(f) at the time when those articles, products or devices are commercially dealt with, no corresponding design relating to those articles or products is or is deemed to be registered.

(2) It is a permitted use of the artistic work to —

5 (a) during the period of 15 years starting from the date of the first commercial dealing in those articles, products or devices — do any act that would have been within the exclusive rights in the corresponding design had the design been registered in respect of all of those articles and non-physical products; and

10 (b) after the end of that period —

(i) do any act that would have been within the exclusive rights in the corresponding design if the design had been registered in respect of all of those articles and non-physical products to which it was capable of being applied; or

15

(ii) do any act that would have been within the exclusive rights in any possible similar design if all possible similar designs had been registered in respect of all of those articles and non-physical products to which they were capable of being applied.

20

(3) For the purposes of subsections (1) and (2), no account is to be taken of any article, product or device if —

(a) the corresponding design applied to the article or product is primarily literary or artistic in character; and

25 (b) at the time the article, product or device is commercially dealt with, designs for the article, product or device are excluded from registration by rules made under the Registered Designs Act 2000 or the Registered Designs Act 1949 of the United Kingdom (U.K. 1949, c. 88).

30 (4) For the purposes of any proceedings under this Act, a design is conclusively presumed to have been excluded under subsection (3) if —

(a) before those proceedings commenced —

- (i) an application for the registration of the design in respect of the article or product under the Registered Designs Act 2000 has been refused; or
 - (ii) an application made before 13 November 2000 for the registration of the design in respect of the article under the Registered Designs Act 1949 of the United Kingdom (UK 1949, c. 88) has been refused;
- (b) a (or the) stated reason for the refusal was that the design was excluded from registration by rules made under the applicable Act; and
- (c) no appeal against that refusal —
- (i) had been allowed before the proceedings commenced; or
 - (ii) was pending when the proceedings commenced.
- (5) Regulations may prescribe what amounts to the industrial application of a design for the purposes of this section.
- (6) For the purposes of this section, an article, a product or a device is commercially dealt with if it is sold, let for hire, or offered or exposed for sale or hire, whether in Singapore or elsewhere, and “commercial dealing” has a corresponding meaning.

Artistic works that have been industrially applied [70]

264.—(1) If the condition in subsection (2) is met, it is a permitted use of an artistic work to make —

- (a) a useful article in 3 dimensions;
 - (b) a 2-dimensional reproduction that is reasonably required to make a useful article in 3 dimensions; or
 - (c) a non-physical product.
- (2) The work must have been applied industrially, whether in Singapore or elsewhere, before the article, reproduction or product was made.
- (3) Regulations may prescribe what amounts to the industrial application of a work for the purposes of this section.

(4) In this section, “useful article” —

(a) means an article with an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information; and

5 (b) includes an article that is normally part of a useful article.

Division 15 — Material in Public Registers and Public Material

Definition: what is a public register [new]

265. In this Division, “public register” —

10 (a) subject to paragraphs (b) and (c), means any collection (however named) of documents or materials to which the following criteria apply:

(i) the collection is maintained by the Government or a public body under any written law;

15 (ii) the Government or public body (as the case may be) is required or permitted by law —

(A) to open the collection for inspection by the public or a segment of the public, whether for a fee or not; or

20 (B) to provide copies of the documents or materials to a member of the public or a segment of the public, whether for a fee or not;

(b) includes any prescribed collection of documents or materials; and

25 (c) excludes a public collection and any prescribed collection of documents or materials.

Copying and communicating material in public registers [new]

266.—(1) If the conditions in subsection (2) are met, it is a permitted use of any work, or a recording of a protected performance, to —

30 (a) make a copy or reproduction of the work or recording; or

(b) communicate the work or recording to the public.

(2) The conditions mentioned in subsection (1) are —

(a) the work or the recording of the performance is part of a public register;

5 (b) if the register is maintained by the Government — the act is done by or with the authority of the Government;

(c) if the register is maintained by a public body — the act is done by or with the authority of the public body; and

(d) the act is done —

10 (i) to facilitate the inspection of the register, or the provision of copies from the register, as required or permitted by law;

(ii) to facilitate the exercise of any right that the law mentioned in sub-paragraph (i) is meant to facilitate;
or

15 (iii) for the purpose of maintaining the register.

(3) Where —

(a) an act is a permitted use of a work or performance under this section; and

20 (b) copies or reproductions of the work, or recordings of the performance, are supplied to the public as part of, or incidentally to, that act,

the supply of those copies or reproductions —

(c) does not amount to publication of the work or recordings; and

25 (d) must not be taken into account in determining the duration of any copyright under this Act.

Copying or reproducing factual information in literary or artistic works in public registers [new]

30 **267.** Copyright in a literary or artistic work is not infringed by making a copy or reproduction of the work if —

(a) the work is part of a public register;

- (b) if the register is maintained by the Government — the copy or reproduction is made by or with the authority of the Government;
- (c) if the register is maintained by a public body — the copy or reproduction is made by or with the authority of the public body;
- (d) the copy or reproduction is limited to factual information of any description in the work; and
- (e) the copy or reproduction is not supplied to the public.

10 **Definition: what is public material [new]**

268. In this Division, a work or a recording of a protected performance is public material if —

- (a) it is held by the Government or a public body; and
- (b) it is supplied, communicated or otherwise disclosed to the public by or with the authority of the Government or public body in —
 - (i) the exercise of any power conferred by law; or
 - (ii) the performance of any duty imposed by law.

Copying and communicating public material [new]

20 **269.**—(1) If the conditions in subsection (2) are met, it is a permitted use of any work, or a recording of a protected performance, to —

- (a) make a copy or reproduction of the work or recording; or
- (b) communicate the work or recording to the public.

25 (2) The conditions mentioned in subsection (1) are that —

- (a) the work or recording is —
 - (i) already public material; or
 - (ii) by virtue of the act, public material;
- (b) if the work or recording is held by the Government — the act is done by or with the authority of the Government;

- (c) if the work or recording is held by a public body — the act is done by or with the authority of the public body; and
- (d) the act is done —
- 5 (i) to facilitate the more convenient viewing or hearing of the work or recording; or
- (ii) to facilitate the exercise of any right that the power or duty mentioned in section 268(b) is meant to facilitate.

Copying or reproducing factual information in public literary or artistic works [new]

- 10 **270.**—(1) Making a copy of a literary or artistic work is a permitted use if —
- (a) the work is public material;
- (b) if the work is held by the Government — the copy or reproduction is made by or with the authority of the Government;
- 15 (c) if the work is held by a public body — the copy or reproduction is made by or with the authority of the public body;
- (d) the copy or reproduction is limited to factual information of any description in the work; and
- 20 (e) the copy or reproduction is not supplied to the public.

Division 16 — Acts for Service of Government

Definition: what is a public act [198(1), (2), (3) and (10)]

- 25 **271.**—(1) In this Division, “public act” means any act that is —
- (a) done by —
- (i) the Government; or
- (ii) a person with the written authority of the Government —
- 30 (A) whether the authority was given before or after the act; and

(B) whether or not the person also has the licence of the relevant rights owner to do the act; and

(b) done for the service of the Government.

(2) For the purposes of subsection (1)(b) —

5 (a) where the Government has agreed or arranged with another country to supply goods to that country for its defence, the following acts are taken to be for the service of the Government:

10 (i) any act done in connection with supplying those goods under the agreement or arrangement;

(ii) the sale of any of those goods that are not required under the agreement or arrangement; and

15 (b) copying the whole or any part of an authorial work for the teaching purposes of an educational institution of, or under the control of, the Government is not an act done for the service of the Government.

Public act is permitted use [198(1), (3), (4)]

272.—(1) A public act in relation to any work or protected performance is a permitted use.

20 (2) As soon as practicable after a public act is done, the Government must —

(a) inform the relevant rights owner; and

(b) give the owner any information that the owner may reasonably require from time to time.

25 (3) However, subsection (2) does not require the Government to do anything that it considers to be against the public interest.

Terms for doing public act [198(5) and (6)]

273.—(1) The terms for doing a public act are to be —

30 (a) agreed between the Government and the rights owner, whether before or after the act is done; or

(b) in default of agreement, decided by a Copyright Tribunal.

(2) Unless it is approved by the Minister, an agreement or a licence that fixes the terms on which a person (other than the Government) may do a public act is void to the extent that it purports to apply to any act done after 10 April 1987.

5 (3) Subsection (2) applies to any agreement or licence made or granted before, on or after 10 April 1987.

Public act does not amount to publication [198(8)]

274. A public act —

10 (a) does not amount to publication of a work or of a recording of a protected performance; and

(b) must not be taken into account in determining the duration of any copyright under this Act.

Protection of purchaser in sale in the course of public act [198(7)]

15 **275.**—(1) This section applies where, by virtue of section 272, the sale of an article —

(a) does not infringe the copyright in a work; and

(b) is not an infringing use of a protected performance.

20 (2) The purchaser and any person claiming through the purchaser is entitled to deal with the article as if the Government is the rights owner.

Modification when exclusive copyright licence in force [198(9)]

25 **276.** In relation to any copyright that is subject to an exclusive licence, a reference in this Division to the rights owner is to be read as a reference to the exclusive licensee.

Division 17 — Judicial Proceedings and Legal Advice

Acts done for judicial proceedings [7(1), 38, 106]

277.—(1) It is a permitted use of any work or protected performance to do anything for the purposes of —

- (a) a judicial proceeding; or
- (b) reporting a judicial proceeding.

(2) In this section, “judicial proceeding” means a proceeding before any court, tribunal or person having by law power to hear, receive and examine evidence on oath.

Acts done for seeking legal advice [38, 106]

278. It is a permitted use of any work or protected performance to do anything —

- (a) for the purpose of seeking professional advice from an advocate and solicitor; or
- (b) for the purpose of, or in the course of, the giving of professional advice by an advocate and solicitor.

Division 18 — Miscellaneous

Temporary copies or reproductions made in the course of communication [38A, 107E]

279.—(1) If the conditions in subsection (2) are met, it is a permitted use of —

- (a) any work or any recording of a protected performance to make a temporary reproduction or copy of the work or recording; and
- (b) an adaptation of an authorial work to make a temporary reproduction of the adaptation.

(2) The conditions are —

- (a) the temporary reproduction or copy is made incidentally as part of the technical process of making or receiving a communication;
- (b) the act of making the communication is not an infringement
- (c) the communicated reproduction or copy is not an infringing copy of the work, adaptation or performance; and

(d) the communicated reproduction or copy would not, had it been made in Singapore, be an infringing copy of the work, adaptation or performance.

5 (3) This section does not authorise any subsequent use of the temporary reproduction or copy.

Temporary copies or reproductions made in user caching **[193E]**

10 **280.** It is a permitted use of any work or any recording of a protected performance to make a temporary and incidental electronic copy of the work or recording if —

(a) the copy is made from an electronic copy of the work or recording that has been made available on a network; and

15 (b) the making of the firstmentioned copy is needed for a user of the network (or another network) to see, hear or use the work or recording.

Transfer of electronic copy of material [193F]

281.—(1) This section applies where —

20 (a) an electronic copy of any material (called in this section the original copy) has been purchased on or after 15 December 1999; or

(b) the terms of purchase (whether expressed or implied), or any rule of law, allow the purchaser to do any of the following acts in connection with the use of the copy:

25 (i) copy the material;

(ii) adapt the material;

(iii) make copies of an adaptation of the material.

(2) If the purchaser transfers the original copy, any act done by the transferee in relation to the copy is a permitted use of any work or protected performance if —

30 (a) the purchaser was allowed to do the act; and

(b) if there are no express terms that —

- 5
- (i) prohibit the purchaser from transferring the copy;
 - (ii) impose obligations, whether on the purchaser or transferee, that continue after the transfer;
 - (iii) prohibit the assignment of any licence in relation to the material;
 - (iv) terminate any licence in relation to the material if the copy is transferred; or
 - (v) regulate the terms on which the transferee may do the acts that the purchaser was allowed to do.
- 10 (3) However, after the transfer, any copy (including the original copy), adaptation or copy of an adaptation that is retained by the purchaser is to be treated as an infringing copy of the work or performance, as the case may be.
- (4) Subsections (2) and (3) also apply where the original copy is unusable and a further copy is transferred instead.
- 15 (5) Subsections (2), (3) and (4) also apply to a subsequent transfer, and for this purpose a reference to the purchaser in those subsections is to be read as a reference to the subsequent transferor.

20 **Reproductions of published editions of authorial work in course of permitted use of authorial work [116]**

282. It is a permitted use of a published edition of an authorial work (or authorial works) to make a reproduction of the edition (or part of the edition) in the course of any permitted use of that work (or any, some or all of those works).

25 **Reading or recitation of literary or dramatic work [41]**

283. The following acts are permitted uses of a published literary or dramatic work if the work is sufficiently acknowledged:

- (a) reading or reciting, in public, an extract of reasonable length from the work or from an adaptation of the work;
- 30 (b) including, in a communication, a reading or recitation of an extract of reasonable length from the work or from an adaptation of the work.

Religious performances of literary, dramatic or musical work
[42]

284. It is a permitted use of a literary, dramatic or musical work to perform the work or an adaptation of the work if —

- 5 (a) the work is of a religious nature; and
 (b) the performance is in the course of services at a place of worship or other religious assembly.

Making recording of performance in mistaken belief of authorisation [246, “exempt recording” (k)]

- 10 **285.** It is a permitted use of a protected performance for a person (X) to make a recording of the performance if, because of a fraudulent or innocent misrepresentation made to X, X believes that the rights owner has authorised X to make the recording.

Division 19 — Notation of copies

15 **When and how should a copy be notated [201(1)-(3), (12); 7(3)(i)]**

20 **286.—**(1) Where a copy (including a microform copy and an accessible format copy) of a work, or of a recording of a protected performance, is required to be notated under this section, the notation must —

- 25 (a) in the case of a record embodying a sound recording of a work (or part of the work) or a recording of a protected performance (or part of the performance) — be in the form of a sound recording of a prescribed message that is embodied on the record —
 (i) at the time the record was made; and
 (ii) immediately before the start of the sound recording of the work;
 30 (b) in the case of a copy of a film, a sound recording, or a recording of a protected performance —

- (i) be made on or attached to the copy at or about the time the copy is made;
- (ii) state the institution (or the custodian of a library or archive) —
- 5 (A) that made the copy; or
(B) on whose behalf the copy was made; and
- (iii) state the date on which the copy was made; and
- (c) in any other case —
- (i) be made on the copy at or about the time the copy is made;
- 10 (ii) state the institution (or the custodian of a library or archive) —
- (A) that made the copy; or
(B) on whose behalf the copy was made; and
- 15 (iii) state the date on which the copy was made.
- (2) For the purposes of subsection (1) —
- (a) a copy or record is made on behalf of an institution if it is made or caused to be made —
- 20 (i) by an authorised officer of a library of the institution;
or
(ii) by or on behalf of the body administering the institution; and
- (b) a copy or record is made on behalf of the custodian of a public collection (other than a library of an institution) if the copy is made or caused to be made by an authorised officer of the custodian.
- 25
- (3) In this section, “microform copy”, in relation to the whole or a part of a work, means a copy of the whole or part of the work produced by miniaturising the graphic symbols of which the work is composed.
- 30

Presumptions relating to notated copy [201(6)-(11)]

287.—(1) In the following proceedings, a copy that is notated in accordance with section 286 is prima facie proof of the notated matters:

- 5 (a) proceedings for rights infringements;
- (b) proceedings for contravening any provision of this Act;
- (c) proceedings in a Copyright Tribunal relating to sections 190(5)(b), 202(4)(b) or 207(3)(b).

10 (2) For the purpose of subsection (1), unless the contrary is proved, a copy is presumed to be notated at the time required in section 286 if it appears to be otherwise notated in accordance with that section.

Making false or misleading notation [201(4)]

288.—(1) A person commits an offence if —

- 15 (a) the person makes a notation that is for, or appears to be for, the purposes of section 286; and
- (b) the person knows or ought reasonably to know that the notation is materially false or misleading.

(2) A person convicted of an offence under subsection (1) shall be liable on conviction to a fine not exceeding \$2,000.

20

PART 6

REMEDIES FOR AND ENFORCEMENT ACTIONS AGAINST RIGHTS INFRINGEMENTS

Division 1 — Remedies for Rights Infringements

25 Interpretation of this Division [new]

289. In this Division —

- “delivery up order” means an order under section 294;
- “disposal order” means an order under section 295;
- “infringement action” means —

- (a) an action for copyright infringement under section 145;
- (b) an action for an infringing use of a protected performance under section 170.

Remedies available [119(2), (2A), (2B); 253(2), (2A), (2B)]

5 **290.**—(1) Subject to the provisions of this Act, the remedies that a court may grant for a rights infringement include —

- (a) an injunction (subject to such terms (if any) as the court thinks fit);
- (b) damages, including additional damages under section 292;
- 10 (c) an account of profits;
- (d) if the claimant so elects, statutory damages in accordance with section 293;
- (e) a delivery up order; and
- (f) a disposal order.

15 (2) Subject to subsection (3), the remedies in subsection (1)(b), (c) and (d) are mutually exclusive.

(3) The court may order both damages and an account of profits in respect of a rights infringement, but only insofar as the damages do not include the profit attributable to the infringement.

20 **No damages where rights infringed unknowingly [119(3)]**

291.—(1) Where a person does an act that constitutes a rights infringement, damages may not be ordered for the infringement if, at the time of doing that act, the person did not know, and had no reasonable grounds to believe, that the act was a rights infringement.

25 (2) To avoid doubt, subsection (1) does not prevent the court from ordering any other remedy (including an account of profits) for the infringement.

Measure of damages [119(4); 253(3)]

292. The court may order additional damages for a rights infringement if it is appropriate in the circumstances, having regard to all relevant matters including —

- 5 (a) the flagrancy of the infringement; and
- (b) any benefit shown to have accrued to the defendant by reason of the infringement.

Measure of statutory damages [119(2C), (5) (6); 253(3A)]

293.—(1) This section applies where a claimant in an infringement action elects for statutory damages.

(2) The amount of statutory damages must not exceed —

- (a) \$10,000 for each work or performance that is the subject of the action;
- 15 (b) \$200,000 for all the works that are the subject of the action; and
- (c) \$200,000 for all the performances that are the subject of the action.

(3) However, subsection (2)(b) and (c) does not apply if the claimant proves that the claimant’s actual loss for all the works or performances that are the subject of the action exceeds \$200,000.

(4) If separate and independent works, or recordings of performances, are assembled into one whole, they are taken to be one work for the purposes of subsection (2).

(5) In deciding the amount of statutory damages, the court must consider all relevant matters, including —

- (a) the nature and purpose of the act constituting the rights infringement, including whether the act was of a commercial nature or otherwise;
- (b) the flagrancy of the rights infringement;
- 30 (c) whether the defendant acted in bad faith;

- (d) any loss that the claimant has suffered or is likely to suffer because of the infringement;
- (e) any benefit gained by the defendant because of the infringement;
- 5 (f) the conduct of the parties before and during the proceedings; and
- (g) the need to deter other similar infringements.

Order to deliver up infringing copies, etc. [120; 253(4), (5), (6)]

- 294.**—(1) This section and sections 295 and 296 applies where —
- 10 (a) an infringement action is brought; and
 - (b) any of the following items (called in this section and sections 295 and 296 offending items) are before the court or in the defendant’s possession:
 - (i) any infringing copy;
 - 15 (ii) any article that has been used to make infringing copies.
- (2) The court may order the offending items to be delivered up to the claimant, but only if —
- (a) the court also makes a disposal order; or
 - 20 (b) it appears to the court that there are grounds for making a disposal order.
- (3) If the court orders any offending items to be delivered up to a person under subsection (2), the person must retain the items until the court decides whether or not to make a disposal order.

25 Order to dispose of infringing copies, etc. [120A(1), (2), (6), (7); 120(1), (2); 254(1), (2), (5), (6), (7)]

- 295.**—(1) The court may order the offending items to be —
- (a) forfeited to the claimant;
 - (b) destroyed; or
 - 30 (c) dealt with as the court directs.

(2) Without limiting subsection (1)(c), a disposal order may require offending items to be sold and the proceeds to be divided between interested persons.

5 (3) In deciding whether to make a disposal order, and the form of the order, the court must consider —

(a) whether other remedies would be adequate to compensate the claimant and to protect the claimant's interests; and

(b) the need to ensure that no item is disposed of in a manner that would adversely affect the claimant.

10 (4) If the court decides not to make a disposal order after making an order for delivery up under section 294, the court —

(a) must order that the offending items be returned to the person who was last in possession of the offending items before they were delivered up; and

15 (b) may order the defendant in the infringement action to pay just and equitable damages to the claimant.

Procedure for disposal order [120A(3), (4), (5); 254(3), (4), (5)]

296.—(1) This section applies to proceedings for a disposal order to be made against offending items.

20 (2) The court must give directions to serve notice on persons having an interest in any of the offending items.

(3) A person who claims an interest in any of the offending items may appear in the proceedings, even if notice has not been served on the person.

25 (5) If the court makes a disposal order, any person interested in any of the offending items may appeal against the order, even if the person did not appear in the proceedings for the order.

(6) A disposal order does not take effect until —

30 (a) the period for giving notice of an appeal against the order expires and no notice of appeal has been given; or

- (b) if a notice of appeal is given within the period for giving notice of an appeal — the appeal is finally determined or abandoned.

5 **Equitable remuneration for causing sounds embodied in commercially published sound recording to be heard in public**
[new]

10 **297.** Despite any provision to the contrary in this Act, the only remedy for an infringement of copyright under section 143 is an order for the payment of equitable remuneration as determined by a Copyright Tribunal.

*Division 2 — Remedies Against
 Network Service Providers*

Subdivision (1) — Preliminary

Interpretation of this Division [193A(1); 246(1)]

15 **298.** In this Division —

“electronic copy” means —

- (a) a work, or a copy of a work, in an electronic form; or
- (b) a sound recording, in an electronic form, of a performance;

20 “network connection provider” or “NCP” —

- (a) means a person who provides services relating to, or provides connections for, the transmission or routing of data; but
- (b) does not include any prescribed person or class of persons;

25

“network services provider” or “NSP” means a person who provides, or operates facilities for, online services or network access; and —

- (a) includes a network connection provider; but

(b) does not include any prescribed person or class of persons;

“primary network”, in relation to a network service provider, refers to a network controlled or operated by or for the network service provider;

“restoration notice” means a restoration notice that complies with the requirements prescribed under section 308;

“rights owner” also includes, in relation to a copyright, any exclusive licensee of the copyright;

“routing” means directing or choosing the means or routes for the transmission of data;

“take-down notice” means a take-down notice that complies with the requirements prescribed under section 308.

Provisions relating to rights infringement not affected [193A(2); 252CF(1)]

299. This Division does not affect what constitutes a rights infringement.

*Subdivision (2) — Restriction of Remedies
Against Rights Infringements in Course of
Providing Network Services*

Restriction of remedies if conditions satisfied [193DB; 252CB]

300.—(1) The purpose of this Subdivision is to restrict the remedies available against a NCP or NSP for rights infringements arising from their activities, but only if certain conditions are satisfied.

(2) If section 301 (transmission, routing and providing connections) applies to a rights infringement by a NCP —

(a) the court may only grant either or both of the following remedies against the NCP in respect of the rights infringement:

- (i) an order requiring the NCP to take reasonable steps to disable access to an online location that is physically situated outside Singapore;
 - (ii) an order requiring the NCP to terminate a specified account; and
- (b) to avoid doubt, the court must not grant any other remedy (including a monetary remedy) against the NCP in respect of the rights infringement.
- (3) If section 302, 303 or 304 (system caching, storage, and locating information) applies to a rights infringement by a NSP —
 - (a) the court may only grant one or more of the following remedies against the NSP in respect of the rights infringement:
 - (i) an order requiring the NSP to —
 - (A) remove an infringing electronic copy from the NSP’s primary network; or
 - (B) disable access to an infringing electronic copy on the primary network or another network;
 - (ii) an order requiring the NSP to terminate a specified account;
 - (iii) if necessary, some other less burdensome but comparatively effective non-monetary order; and
 - (b) to avoid doubt, the court must not grant any remedy (including a monetary remedy) against the NSP in respect of the rights infringement.
- (4) In deciding whether to make an order under subsection (2)(a) or (3)(a), and the form of the order, the following factors must be considered:
 - (a) the harm that has been or may foreseeably be caused to the claimant;
 - (b) the burden that the making of the order will place on the NCP or NSP;

- (c) the technical feasibility of complying with the order;
- (d) the effectiveness of the order;
- (e) any possible adverse effect on the business or operations of the NCP or NSP;
- 5 (f) whether some other comparably effective order would be less burdensome;
- (g) any other relevant matter.

(5) In this section, “monetary remedy” means damages, an account of profits or statutory damages.

10 **Conditions relating to infringement by transmission, routing and providing connections [193B; 193DE(2)(b); 252A; 252CE(2)(b)]**

301.—(1) This section applies where —

- (a) a NCP commits a rights infringement by —
 - 15 (i) transmitting or routing, or providing connections for, an electronic copy through the NCP’s primary network; or
 - (ii) any temporary storage of an electronic copy in the course of doing an act under sub-paragraph (i);
 - 20 (b) the conditions in subsection (2) are satisfied; and
 - (c) all prescribed conditions (if any) are satisfied.
- (2) The conditions mentioned in subsection (1)(b) are —
- 25 (a) in case of the transmission of an electronic copy — the transmission was not initiated by or at the direction of the NCP;
 - (b) the act constituting the infringement was carried out through an automatic technical process and the NCP did not select the electronic copy;
 - 30 (c) the NCP did not select the recipients of the electronic copy except as an automatic response to a request by another person; and

(d) the NCP did not substantively modify the content of the electronic copy (apart from any modification made as part of a technical process) when the electronic copy was transmitted through the NCP's primary network.

5 **Conditions relating to infringement by system caching [193C; 193DE(2)(b); 252B; 252CE(2)(b)]**

302.—(1) This section applies where —

(a) a NSP commits a rights infringement by making an electronic copy (called in this section the cached copy) —

- 10 (i) on the NSP's primary network;
- (ii) from another electronic copy that is available on a network (called in this section the originating network);
- (iii) through an automatic process;
- 15 (iv) in response to an action by a user of the NSP's primary network; and
- (v) to facilitate efficient access to the underlying work or performance (as the case may be) by that user or other users; and

20 (b) the conditions in subsection (2) are satisfied.

(2) The conditions mentioned in subsection (1)(b) are —

25 (a) the NSP did not substantively modify the content of the cached copy (apart from any modification made as part of a technical process) when the cached copy was transmitted to users of the NCP's primary network or another network;

(b) if the NSP was served with a take-down notice that purports to be given by or on behalf of the rights owner of the cached copy — the NSP expeditiously took reasonable steps to remove or disable access to the cached copy on its primary network; and

30

(c) any prescribed condition, including conditions relating to —

- (i) access to the cached copy by users of the NSP's primary network or of another network;
- (ii) refreshing, reloading or updating the cached copy; or
- (iii) non-interference with technology used at the originating network to obtain information about the use of any electronic copies on the originating network, being technology that is consistent with industry standards in Singapore.

Conditions relating to infringement by storage [193D(1)(a), (2), (3), (6); 193DE(2)(b); 252C(1)(a), (2), (3), (6); 252CE(2)]

303.—(1) This section applies where —

- (a) a NSP commits a rights infringement by storing an electronic copy on its primary network (called in this section the stored copy), at the direction of a user of that network;
- (b) the conditions in subsection (2) are satisfied; and
- (c) all prescribed conditions (if any) are satisfied.

(2) The conditions mentioned in subsection (1)(b) are —

- (a) if the NSP has the right and the ability to control any rights infringements in relation to the stored copy — the NSP did not receive any financial benefit that is directly attributable to any of those rights infringements;
- (b) if —
 - (i) the NSP knew that rights infringements have been committed in relation to the stored copy;
 - (ii) the NSP knew about facts or circumstances that would inevitably lead to the conclusion that rights infringements have been committed in relation to the stored copy; or
 - (iii) the NSP was served with a take-down notice that purports to be given by or on behalf of the rights owner of the stored copy,

the NSP expeditiously took reasonable steps to remove or disable access to the stored copy; and

(c) the NSP has —

(i) designated a representative to receive take-down notices under paragraph (b)(iii); and

(ii) published, in the prescribed manner, the prescribed information about the designated representative.

(3) In deciding whether a financial benefit is directly attributable to a rights infringement for the purposes of subsection (3)(a), the following matters must be considered:

(a) industry practice in relation to the charging of services by NSPs;

(b) whether the financial benefit was greater than the benefit that would usually result from charging in accordance with accepted industry practices;

(c) any other relevant matters.

(4) In deciding whether a NSP knows about the matters in subsection (2)(b)(i) or (ii), the following notices must not be considered:

(a) a notice that purports to be given by or on behalf of the rights owner of the stored copy (other than a take-down notice under subsection (2)(b)(iii));

(b) a notice by the rights owner of the stored copy under section 311(2)(b) (intention to apply for access disabling order).

Conditions relating to infringement by locating information
[193D(1)(b), (4), (5), (6); 193DE(2)(b); 252C(1)(b), (4), (5), (6); 252CE(2)]

304.—(1) This section applies where —

(a) an electronic copy (called in this section the main copy) is made available on an online location on a network (called in this section the originating network);

- (b) the NSP commits a rights infringement by referring or linking a user of any network to the online location;
 - (c) the referring or linking is done by using —
 - (i) an information location tool (for example, a hyperlink or directory); or
 - (ii) an information location service (for example, a search engine);
 - (d) the conditions in subsection (2) are satisfied; and
 - (f) all prescribed conditions (if any) are satisfied.
- (2) The conditions mentioned in subsection (1)(d) are —
- (a) if the NSP has the right and the ability to control any rights infringement in relation to the main copy — the NSP did not receive any financial benefit that is directly attributable to any of those rights infringements;
 - (b) if —
 - (i) the NSP knew that rights infringements have been committed in relation to the main copy;
 - (ii) the NSP knew about facts or circumstances that would inevitably lead to the conclusion that rights infringements have been committed in relation to the main copy; or
 - (iii) the NSP was served with a take-down notice that purports to be given by or on behalf of the rights owner of the main copy,
 the NSP expeditiously took reasonable steps to remove or disable access to —
 - (iv) the main copy; and
 - (v) any further electronic copies made from the main copy and made available on the NSP’s primary network, but only if the NSP knows about those further copies; and
 - (c) the NSP has —

- (i) designated a representative to receive take-down notices under paragraph (b)(iii); and
 - (ii) published, in the prescribed manner, the prescribed information about the designated representative.
- 5 (3) In deciding whether a financial benefit is directly attributable to a rights infringement for the purposes of subsection (2)(a), the following matters must be considered:
- (a) industry practice in relation to the charging of services by NSPs;
 - 10 (b) whether the financial benefit was greater than the benefit that would usually result from charging in accordance with accepted industry practices;
 - (c) any other relevant matters.
- 15 (4) In deciding whether a NSP knows about the matters in subsection (2)(b)(i) or (ii), the following notices must not be considered:
- (a) a notice that purports to be given by or on behalf of the rights owner of the main copy (other than a take-down notice under subsection (2)(b)(iii));
 - 20 (b) a notice by the rights owner of the main copy under section 311(2)(b) (intention to apply for access disabling order).

Conditions do not require monitoring of network services, etc.
[193A(1), (3); 252CF(2), (3)]

- 25 **305.**—(1) The application of sections 300, 301, 302, 303 and 304 do not depend on —
- (a) a NSP monitoring its service or affirmatively seeking facts indicating a rights infringement, except to the extent consistent with any standard technical measure; or
 - 30 (b) a NSP taking any action to gain access to, remove or disable access to any electronic copy in any case where the action is prohibited by law.

(2) In this section, “standard technical measure” means any technical measure accepted in Singapore that —

- 5 (a) is used to identify or protect works in which there is copyright, protected performances, or recordings of protected performances;
- (b) has been developed through an open, voluntary process by a broad consensus of rights owners and NSPs;
- (c) is available to any person on reasonable and non-discriminatory terms; and
- 10 (d) does not impose substantial costs on NSPs or substantial burdens on their primary networks.

Evidence of compliance with conditions [193DC; 252CC]

306.—(1) In proceedings relating to this Subdivision, a NSP may produce evidence —

- 15 (a) that is prescribed; and
- (b) that suggests that the NSP complied with any condition mentioned in section 301, 302, 303 or 304.

(2) If a NSP produces the evidence mentioned in subsection (1), the NSP is presumed, unless the contrary is proved, to have complied with the relevant condition.

Protection against liability for removing electronic copy under section 302, 303 or 304 [193DA; 193DE(2)(b); 252CA; 252CE(2)(b)]

307.—(1) Despite anything to the contrary in any written law or rule of law, a NSP is not liable under any rule of law where —

- 25 (a) the NSP acts in good faith to —
 - (i) remove an electronic copy from its primary network; or
 - (ii) disable access to an electronic copy on its primary network or another network;
- 30 (b) the removal or disabling was done in reliance on —

- (i) a take-down notice under section 302 (system caching);
 - (ii) a take-down notice under section 303 (storage);
 - (iii) the knowledge mentioned in section 303 (storage);
 - 5 (iv) a take-down notice under section 304 (information location); or
 - (v) the knowledge mentioned in section 304 (information location);
- (c) in the case of paragraph (b)(ii) or (iv) — the conditions in
10 subsection (2) are satisfied;
 - (d) in the case of paragraph (b)(iii) or (v) — the conditions in subsection (3) are satisfied; and
 - (e) any prescribed condition is satisfied.
- (2) The conditions mentioned in subsection (1)(c) are —
- 15 (a) after the removal or disabling, the NSP expeditiously takes reasonable steps to —
 - (i) notify the person who made the electronic copy available on the relevant network of the removal or disabling; and
 - 20 (ii) provide that person with a copy of the take-down notice; and
 - (b) if the NSP is served with a restoration notice within the prescribed time by a person purporting to be, or to be acting on behalf of, the person who made the electronic copy
25 available on the relevant network —
 - (i) subject to any written law on privacy or data protection, the NSP expeditiously provides a copy of the restoration notice to the person (X) who served the take-down notice;
 - 30 (ii) the NSP expeditiously notifies X, stating that the NSP will take reasonable steps to restore the electronic

copy or to restore access to the electronic copy, but only if —

(A) the restoration is technically and practically feasible; and

5 (B) within 10 working days after the notification —
 (BA) no proceedings are brought by or on behalf of the rights owner of the electronic copy to prevent the restoration; or

10 (BB) the NSP is not informed in writing of the proceedings; and

(iii) if the conditions in sub-paragraph (ii)(A) and (B) are satisfied —

15 (A) the NSP takes reasonable steps to restore the electronic copy, or to restore access to the electronic copy; and

(B) the NSP does so not less than 10, and not more than 14, working days after the date of the notification in sub-paragraph (ii).

20 (3) The conditions mentioned in subsection (1)(d) are —

(a) after the removal or disabling, the NSP expeditiously takes reasonable steps to notify the person who made the electronic copy available on the relevant network of the removal or disabling; and

25 (b) if the NSP is served with a restoration notice within the prescribed time by a person purporting to be, or to be acting on behalf of, the person who made the electronic copy available on the relevant network —

30 (i) the NSP takes reasonable steps to restore the electronic copy or to restore access to the electronic copy, but only if —

(A) it is technically and practically feasible to do so; and

(B) within 10 working days after the date on which the restoration notice is served on the NSP —

5 (BA) no proceedings are brought by or on behalf of the rights owner of the electronic copy to prevent the restoration; or

(BB) the NSP is not informed in writing of the proceedings; and

10 (ii) if the NSP must take the steps in sub-paragraph (i) — the NSP does so not less than 10, and not more than 14, working days after the date on which the restoration notice is served on the NSP.

15 (4) Subsection (1) applies whether or not it is ultimately decided that the NSP committed a rights infringement mentioned in section 301, 302, 303, 304.

(5) Despite any contrary written law or rule law, a NSP is not liable under any rule of law where —

(a) the NSP acts in good faith to —

20 (i) restore an electronic copy to the NSP's primary network; or

(ii) restore access to an electronic copy on any network; and

(b) the restoration was done in reliance on a restoration notice under subsection (2)(b) or (3)(b).

25 (6) A NSP must not be treated as having authorised an act that is a rights infringement just because one (but not more) of the following circumstances applies:

(a) the NSP provided a facility that was used by another person to do that act;

30 (b) the NSP was served with a take-down notice under section 302, 303 or 304, or a notice under section 311 in respect of that act;

- (c) the NSP has the knowledge mentioned in sections 303 or 304 in respect of that act.

Requirements relating to take-down or restoration notices
[extracted from separate provisions]

- 5 **308.** A take-down notice under section 302, 303 or 304 or a restoration notice under section 307 must —
- (a) be served in the prescribed manner;
 - (b) be in or substantially in the prescribed form; and
 - (c) state the prescribed matters.

10 **Making false statements in take-down or restoration notice**
[193DD; 193DE(2)(a); 252CD; 252CE(2)(a)]

309.—(1) In making a take-down notice under section 302, 303 or 304 or a restoration notice under section 307, a person must not make a false statement (whether in or outside Singapore) that —

- 15 (a) the person knows is false or does not believe is true; and
- (b) touches a point material to the object of the notice.
- (2) A person who contravenes subsection (1) —
- (a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years; and
 - (b) shall be liable in damages to any person who suffers any loss or damage as a result of making that notice, but only to the extent that the loss or damage is reasonably foreseeable as a likely result of making that notice.
- 25 (3) If a person makes a statement outside Singapore in contravention of subsection (1), the person may be dealt with under subsection (2)(a) as if the statement were made in Singapore.
- (4) Regulations may prescribe how a person may verify statements made in the notices mentioned in paragraph (1), and the consequences of performing or not performing the prescribed verification.
- 30

*Subdivision (3) — Disabling Access to
Flagrantly Infringing Online Locations*

**Access disabling order [193DDA(1); 193DB(3); 252CDA(1);
252CB(3)]**

5 **310.**—(1) The High Court may, on application, order a NCP to take reasonable steps to disable access to an online location (called in this Subdivision an access disabling order) if —

10 (a) the online location is a flagrantly infringing online location in relation to works or performances of which the applicant is the rights owner; and

 (b) the NCP’s services have been or are being used to access the online location.

(2) In deciding whether to make an access disabling order, and the form of the order, the following factors must be considered:

15 (a) the harm that has been or may foreseeably be caused to the rights owner;

 (b) the burden that the making of the order will place on the NCP;

 (c) the technical feasibility of complying with the order;

20 (d) the effectiveness of the order;

 (e) any possible adverse effect on the business or operations of the NCP;

 (f) whether some other comparably effective order would be less burdensome;

25 (g) any other relevant matter.

**Procedure for application [193DDB(1) to (4); 193DE(2)(a);
252CDB; 252CE(2)(a)]**

30 **311.**—(1) This section applies to an application by a rights owner for an access disabling order against a NCP in relation to an online location.

(2) Subject to subsection (5), the rights owner must do the following before making the application:

(a) give notice to the owner of the online location that —

5 (i) the online location has been or is being used to commit or facilitate infringements against the rights owner's rights; and

10 (ii) if the owner of the online location does not stop the online location from being used in that way within the prescribed period, the rights owner will apply for an access disabling order;

(b) give notice to the NCP that the rights owner intends to proceed to apply for an access disabling order against the NCP, and to do so either —

15 (i) after the end of the prescribed period mentioned in paragraph (a)(ii); or

(ii) after reasonable efforts have been made to give notice under paragraph (a).

(3) The application must be served on the NCP.

20 (4) Subject to subsection (5), notice of the application must be given to the owner of the online location.

(5) At the hearing of the application, the High Court may dispense with the requirement to give notice under subsection (1)(a) or (4) if —

25 (a) the rights owner is unable to give notice, whether because the identity or address of the owner of the online location cannot be ascertained or for any other reason; and

(b) the rights owner has made reasonable efforts to give notice.

(6) The owner of the online location has —

(a) the right to be heard in the application; and

30 (b) the same right of appeal as any party to the application.

(7) Regulations may prescribe —

- (a) in relation to the notices mentioned in subsection (2)(a) and (b) —
- (i) how a notice must be served;
 - (ii) the form of a notice;
 - 5 (iii) the information to be stated in a notice; and
 - (iv) the manner of verifying statements in a notice; and
- (b) what constitutes reasonable efforts for the purposes of subsection (2)(b).

Variation and revocation of order [193DDC; 252CDC]

- 10 **312.**—(1) The High Court may vary an access disabling order if —
- (a) there is a material change of circumstances; or
 - (b) it is otherwise appropriate to do so.
- (2) The High Court may revoke an access disabling order if —
- 15 (a) there is further evidence to show that the order should not have been made;
 - (b) the online location that is the subject of the order has ceased to be a flagrantly infringing online location; or
 - (c) it is otherwise appropriate to do so.
- (3) An application to vary or revoke an access disabling order may
- 20 be made by —
- (a) a party to the order; or
 - (b) the owner of the online location that is the subject of the order.

Application of presumptions [193DDB(5)]

- 25 **313.** The presumptions in Part 3, Division 9, Subdivision (5) and section 171 apply in an application for an access disabling order.

Division 3 — Border Enforcement Measures Against Infringing Goods

Subdivision (1) — Preliminary

Interpretation of this Division [140A]

- 5 **314.** In this Division —
- “customs officer” —
- (a) means an officer of customs as defined in section 3 of the Customs Act 1960; and
- (b) includes a person appointed under section 351(1) or (2);
- 10 “dealer”, in relation to seized goods —
- (a) means the importer or intending exporter of the seized goods, as the case may be; and
- (b) where the seizure was made under section 321, includes the consignee of the seized goods;
- 15 “Director-General” means the Director-General of Customs appointed under section 4(1) of the Customs Act 1960;
- “detention period”, in relation to seized goods, means the period or extended period within which an infringement must be brought in relation to the seized goods under section 327;
- 20 “goods in transit” means goods imported, whether or not landed or transhipped within Singapore, which are to be carried to another country either by the same or another conveyance;
- “infringement action” has the meaning given by section 315;
- “infringing goods” has the meaning given by section 316;
- 25 “request to continue detention” means a request to continue detention under section 323;
- “request to seize” means a request to seize under section 317;
- “rights owner” also includes, in relation to goods that are or incorporate (or are suspected to be or incorporate) a work in

which there is copyright, any exclusive licensee of the copyright;

“seized goods” means goods seized under Subdivision 2 or 3;

“senior customs officer” —

- 5 (a) means a senior officer of customs as defined in section 3 of the Customs Act 1960; and
- (b) includes a person appointed under section 351(2).

Infringement actions to which this Division applies [140I(1); 254B]

10 **315.** In this Division, “infringement action”, in relation to seized goods, means an action —

 (a) for —

- (i) an infringement of copyright constituted by the importation or making of the seized goods; or
- 15 (ii) an action for an infringing use of a performance constituted by the importation or making of the seized goods; and

 (b) brought by any person who is entitled to bring the action.

What are infringing goods [140A, 140B(3), 140LA(2)]

20 **316.** In this Division, “infringing goods” means —

 (a) goods that are or incorporate infringing copies of any of the following works:

- (i) an authorial work;
- (ii) a sound recording;
- 25 (iii) a film;
- (iv) a published edition of a work;
- (v) a television or a sound broadcast as recorded in a film or a sound recording; or

- (b) goods that are or incorporate infringing copies of a protected performance.

Subdivision (2) — Seizure on Request

Request to seize [140B(1), (2), (4), (8); 254B]

- 5 **317.**—(1) A person may request the Director-General to seize goods if —
- (a) the person suspects that the goods are infringing goods of which the person is —
- (i) a rights owner; or
- 10 (ii) a copyright licensee having the power to make a request under this section; and
- (b) the goods are not goods in transit.
- (2) A request must —
- (a) be served on the Director-General in the prescribed manner and at the prescribed times;
- 15 (b) be in the form specified by the Director-General;
- (c) state the capacity in which the requestor is making the request;
- (d) state that infringing goods are expected to either be exported or imported;
- 20 (e) provide enough information to —
- (i) identify the goods in question;
- (ii) enable the Director-General to ascertain where and when the goods are expected to be imported or exported; and
- 25 (iii) satisfy the Director-General that the goods are infringing goods;
- (f) provide any information or evidence that is prescribed or required by the Director-General;
- 30 (g) be accompanied by the prescribed fee; and

(h) be accompanied by the sum of money or the security required under section 334.

(3) Regulations may prescribe further requirements in relation to a request to seize.

5 **Duration of request [140B(5), (6); 254B(2)(e)]**

318.—(1) A request to seize is in force until it is revoked or expires under this section.

(2) A request may be revoked at any time by a written notice given to the Director-General by —

10 (a) the requestor; or

(b) any person who becomes the rights owner after the requestor.

(3) A request ceases to be valid on the earlier of the following:

(a) 60 days after the request is served on the Director-General;

15 (b) when the goods in question cease to be infringing goods because the copyright in them, or the protection period of the performance, expires.

Seizure on request [140B(7)]

319. A customs officer may seize goods (whether or not they are infringing goods) if —

20 (a) a request to seize has been made in respect of the goods;

(b) the goods have been imported or are proposed to be exported;

(c) the request is made in accordance with section 317;

(d) the request is in force;

25 (e) the requestor has deposited any sum of money, or gave any security, required under section 334; and

(f) the goods are not goods in transit.

Notice of seizure and to bring action [140E(1), (2), (3), (4)]

320.—(1) After goods have been seized under section 319, the Director-General must give written notice to the requestor and the dealer.

- 5 (2) The notice must —
- (a) identify the seized goods;
 - (b) state that they have been seized;
 - (c) state the recipient’s rights under section 336 (inspection of seized goods and removal of sample);
 - 10 (d) state that the goods will be released to the dealer unless —
 - (i) an infringement action is brought in relation to the goods within the prescribed period after the date specified in the notice; and
 - (ii) the Director-General is informed of the action within
 - 15 that period by the requestor.
- (3) The date mentioned in subsection (2)(d) must not be earlier than the date on which the notice is given.
- (4) The notice may be given personally, by post or by email.

Subdivision (3) — Seizure without request

20 **Inspection and seizure without request [140LA(1), (2)]**

321.—(1) A customs officer may examine any goods (including goods in transit) that the officer reasonably suspects to be infringing goods.

- 25 (2) Subject to subsection (3), a customs officer may seize goods that the officer reasonably suspects —
- (a) are infringing goods; and
 - (b) have been imported or are to be exported.

(3) Subsection (2) does not apply to goods in transit, unless they are consigned to a person with a commercial or physical presence in

30 Singapore.

Notice of seizure [140LA(3); 254B]

322.—(1) After goods have been seized under section 321, the Director-General must give written notice to —

- 5 (a) any person who the Director-General considers to be a rights owner of the goods; and
- (b) the dealer.
- (2) The notice must —
 - (a) identify the seized goods;
 - (b) state that they have been seized;
 - 10 (c) state the recipient’s rights under section 336 (inspection of seized goods and removal of sample); and
 - (d) state that the seized goods will be released to the dealer unless a request to continue detention is made in accordance with section 323.
- 15 (3) The notice may be given personally, by post or by email.

Request to continue detention [140LB(1)]

323.—(1) A person may request the Director-General to continue to detain goods seized under section 321 if the person suspects that the goods are infringing goods of which the person is the rights owner.

- (2) A request must —
 - (a) be made within the prescribed period after the date of the notice of seizure in section 322;
 - (b) be served on the Director-General in the prescribed manner and at the prescribed times;
 - 25 (c) be in the form specified by the Director-General;
 - (d) state that the requestor intends to bring an infringement action in relation to the seized goods;
 - (e) provide any information or evidence that is prescribed or
 - 30 required by the Director-General;

- (f) be accompanied by the prescribed fee; and
- (g) be accompanied by the sum of money or the security required by section 334, unless —

- 5 (i) the required sum had earlier been deposited and has not been forfeited or returned; or
- (ii) the required security had earlier been given and remains effective.

(3) Regulations may prescribe further requirements in relation to a request for continued detention.

10 **Release of seized goods if request not made [140LB(3)]**

324. If a request to continue detention in respect of goods seized under section 321 is not made in accordance with section 323, the Director-General must release the goods.

Notice to bring action if request made [140LC(1)]

15 **325.**—(1) If a request to continue detention in respect of goods seized under section 321 is made in accordance with section 323, the Director-General must give a written notice to the requestor and the dealer.

20 (2) The notice must state that the goods will be released to the dealer unless —

- (a) an infringement action is brought in relation to the goods within the prescribed period after the date specified in the notice; and
- 25 (b) the Director-General is informed of the action within that period by the requestor.

(3) The date mentioned in subsection (2)(a) must not be earlier than the date on which the notice is given.

(4) The notice must be given personally, by post or by email.

Subdivision (4) — Infringement Action by Requestor After Seizure

Definition of requestor

326. In this Subdivision, “requestor” —

- 5 (a) in relation to goods seized under Subdivision 2 — means the person who made the request to seize; and
- (b) in relation to goods seized under Subdivision 3 — means the person who made the request to continue detention.

Time for requestor to bring action (“detention period”)

[140E(5), (6), (7); 140LC(2)]

10 **327.**—(1) Where goods are seized under Subdivision 2 or 3, an infringement action in relation to the seized goods must be brought within the detention period.

(2) In this Subdivision, “detention period” —

- 15 (a) means the period specified in the notice under section 320 or 325; and
- (b) includes any extension under this section.

(2) The requestor or any other person entitled to bring an infringement action in relation to the seized goods may apply to the Director-General for an extension, and the Director-General may grant the extension if the Director-General is satisfied that it is reasonable.

20

(3) An extension —

- (a) starts on the expiry of the period specified in the notice under section 320 or 325, as the case may be; and
- 25 (b) must be for the prescribed period.

(4) An application must be made —

- (a) in writing; and
- (b) before the expiry of the period specified in the notice to bring action;

(5) The Director-General must decide on an application within 2 working days after an application is made.

(6) However, a decision cannot be made on an application after the expiry of the period specified in the notice to bring action.

5 **Failure to bring action — release of seized goods [140H(1); 140J; 140LG(1)]**

328.—(1) This section applies if —

(a) no infringement action in relation to the seized goods is brought within the detention period; or

10 (b) the Director-General is not informed in writing of the action within the detention period.

(2) The Director-General must release the seized goods to the dealer unless —

15 (a) the Government or any statutory body is required or permitted by any other law to retain the seized goods; or

(b) the seized goods have been forfeited to the Government under section 340 (forfeiture by consent before action).

Failure to bring action — compensation for seizure [140IA; 140LI]

20 **329.**—(1) If no infringement action is brought in relation to the seized goods within the detention period, a person aggrieved by the seizure may apply to the court for an order of compensation against the requestor.

25 (2) The court may order compensation if it is satisfied that the aggrieved person has suffered loss or damage because of the seizure.

Infringement action — orders in relation to seized goods [140I(4), (5), (6); 140J; 140K(1); 140LH; 140LJ; 140LK]

330.—(1) This section applies if —

30 (a) an infringement action is brought in relation to the seized goods; and

- (b) the seized goods have not been forfeited to the Government or released at the time the action was brought.
- (2) The court may, in addition to granting any other remedy —
- 5 (a) at any time but subject to subsection (3), order that the seized goods be released to the dealer, either with or without conditions;
- (b) order that the seized goods must not be released to the dealer before the end of a specified period; or
- (c) order that the seized goods be forfeited to the Government.
- 10 (3) An order may not be made under subsection (2)(a) if the Government or any statutory body is required or permitted under any law to retain control of the seized goods.
- (4) The Director-General must comply with any order made under subsection (2).
- 15 (5) If an order is made under subsection (2)(c), the seized goods must be disposed of —
- (a) in any prescribed manner; or
- (b) if no manner of disposal is prescribed, as the Director-General directs.
- 20 (6) If no order is made under subsection (2) in relation to the seized goods, the Director-General is not obliged to release the seized goods to the dealer if the Government or any statutory body is required or permitted under any law to retain control of the seized goods.

25 **Infringement action — release of seized goods if no contrary order made [140H(3); 140J; 140LG(2); 140LH]**

- 331.**—(1) This section applies if —
- (a) an infringement action is brought in relation to the seized goods;
- 30 (b) the seized goods have not been forfeited to the Government or released at the time the action was brought; and

(c) on the 22nd day after the day on which the action was brought, there is no court order that prevents the release of the seized goods.

5 (2) The Director-General must release the seized goods to the dealer, unless the Government is required or permitted by any other law to retain control of the seized goods.

Infringement action — compensation if action dismissed, etc.
[140I(7); 140LH]

332.—(1) This section applies if —

- 10 (a) an infringement action is brought in relation to the seized goods;
- (b) the action is dismissed or discontinued, or the court decides that the importation or making of the seized goods is not a rights infringement; and
- 15 (c) the court is satisfied that the defendant has suffered loss and damage because of the seizure.

(2) The court may order the requestor to pay compensation to the defendant.

Infringement action — further provisions [140I(2), (3); 140LH]

20 333.—(1) If an infringement action is brought in relation to seized goods, the court may, on the application of a person with a sufficient interest in the seized goods, allow the person to be joined as a defendant.

25 (2) A customs officer has the right to be heard in an infringement action relating to seized goods.

Subdivision (5) — Supplementary Provisions on Seizure

Security for request to seize or continue detention [140C; 140LB(1)(b), (2)]

30 334.—(1) A person who makes a request to seize or a request to continue detention must —

- (a) deposit with the Director-General a sum of money that, in the Director-General’s opinion, is enough for the purposes in subsection (2); or
- (b) give security, in a form and for an amount satisfactory to the Director-General, for the purposes in subsection (2).
- (2) The purposes are to —
- (a) reimburse the Government for any liability or reasonable expense that the Government is likely to incur in relation to the seizure, storage and disposal of the goods in question; and
- (b) pay any compensation ordered by the court under section 329 or 332.

Direction for secure storage [140D; 140LA(6)]

335. The Director-General may direct any of the following persons to take seized goods to a place that the Director-General considers to be secure:

- (a) the person in possession, custody or control of those goods immediately before they were seized;
- (b) the person who made the request to seize or the request to continue detention.

Inspecting, or removing sample of, seized goods [140F; 140LA(5)]

336.—(1) In this section, “relevant person” means —

- (a) in relation to goods seized under Subdivision 2 — the person who made the request to seize; and
- (b) in relation to goods seized under Subdivision 3 — a person who may make a request to continue detention in respect of those goods, whether or not a request has been made.

(2) The Director-General may permit the dealer or a relevant person to —

- (a) inspect seized goods; or

(b) subject to subsection (3), remove a sample of the seized goods for inspection.

(3) Before a person removes a sample of seized goods for inspection, the person must undertake to the Director-General that the person will —

(a) return the sample to the Director-General at a specified time; and

(b) take reasonable care to prevent damage to the sample.

(4) If the Director-General permits a relevant person to inspect or remove a sample from seized goods under this section, the Director-General is not liable to the dealer for any loss and damage suffered by the dealer because of —

(a) any damage caused to any of the seized goods during the inspection; or

(b) anything done by the relevant person or any other person to, or in relation to, the sample (including any use made by of the sample).

Power of customs officer, etc., to require information after seizure [140EA; 140LD]

337.—(1) This section applies where —

(a) goods have been seized under Subdivision 2; or

(b) goods have been seized under Subdivision 3, whether or not a request to continue detention has been made in respect of those goods.

(2) A customs officer or a senior customs officer may, at any time after the seizure, require a person to provide any information or document at a time and place specified by the officer if —

(a) the officer considers that the information or document —

(i) would enable the Director-General to satisfy a request for information under section 338 (whether or not a request has been made);

- (ii) would enable any action to be taken under Subdivision 2 or 3 in respect of future shipments of goods; or
 - (iii) is relevant for any statistical or research purpose; and
- 5 (b) the officer has reasonable cause to believe that the person has the information or document.
- (3) A person commits an offence if —
 - (a) the person, without reasonable excuse, fails to comply with a requirement under subsection (2); or
 - 10 (b) in response to a requirement under subsection (2), knowingly or recklessly provides any information or document that is false or misleading in a material particular.
- (4) A person who commits an offence under subsection (3) shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 6 months or to both.
- 15 (5) A person is not excused from providing any information or document pursuant to a requirement under subsection (2) just because the information or document might tend to incriminate the person.
- (6) Any information or document provided by a person (X) pursuant to a requirement under subsection (2) is not admissible in any criminal proceedings against X, but only if —
 - 20 (a) X has claimed, before providing the information or document, that the information or document might tend to incriminate X; and
 - 25 (b) the proceedings are not for an offence under subsection (3).
- (7) Any information or document provided in response to a requirement under subsection (2) may not be published, or communicated or disclosed to any person, unless the publication, communication or disclosure is necessary for any purpose in subsection (2)(a)(i), (ii) and (iii).
- 30 (8) A person who contravenes subsection (7) commits an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 12 months or to both.

Requestor may ask for identity, etc., of person connected with seized goods [140EB; 140LE]

338.—(1) This section applies where —

- (a) goods have been seized under Subdivision 2; or
- 5 (b) goods have been seized under Subdivision 3, and a request to continue detention has been made in respect of those goods in accordance with section 323.

(2) The person who made the request to seize or the request to continue detention may apply to the Director-General for the name and contact details of any person connected with the import or
10 proposed export of the seized goods.

(3) The Director-General may provide the requested name and contact details if the Director-General is satisfied that the applicant needs the information to bring an infringement action.

15 (4) Subsection (2) applies despite any duty of confidentiality imposed by the common law that the Director-General (or his or her delegate) is subject to.

Notice of release [140K(2); 140LK]

20 **339.**—(1) This section applies in any case where the Director-General is required by any provision of this Division to release seized goods to the dealer.

(2) The Director-General must —

- (a) give prior written notice of the release to the dealer; and
- 25 (b) specify in the notice the period within which the dealer must take custody of the seized goods.

(3) If the dealer fails to take custody of the seized goods within the specified period, the seized goods may be disposed of —

- (a) in any prescribed manner; or
- 30 (b) if no manner of disposal is prescribed, as the Director-General directs.

Forfeiture by consent [140G; 140LF]

340.—(1) A dealer may consent to forfeiting seized goods to the Government by giving written notice to the Director-General.

(2) The notice must —

5 (a) be given before —

(i) any infringement action is brought in relation to the seized goods; and

(ii) any written notice under section 341 consenting to the release of the seized goods to the dealer; and

10 (b) be accompanied by the prescribed written undertakings.

(3) If subsections (1) and (2) are satisfied, the seized goods are forfeited to the Government and must be disposed of —

(a) in any prescribed manner; or

15 (b) if no manner of disposal is prescribed, as the Director-General directs.

Release by consent [140H(4); 140J; 140LG(3); 140LJ]

341.—(1) A person who made a request to seize or a request to continue detention may consent to releasing seized goods to the dealer by giving written notice to the Director-General.

20 (2) The Director-General must release the seized goods to the dealer, unless —

(a) the Government is required or permitted by any other law to retain control of the seized goods; or

(b) the court orders otherwise under section 330.

25 Release for non-compliance with directions, etc. [140B(8)(c); 140LB(4)(c); 140J, 140LJ]

342. The Director-General or a customs officer may refuse to seize goods or release any seized goods if —

30 (a) any direction of the Director-General, or any prescribed requirement, is not complied with; and

- (b) the Government is not required or permitted under any other law to retain control of the goods.

Unsecured expenses of Director-General [140L; 140LL]

343.—(1) This section applies where —

- 5 (a) the Director-General incurs reasonable expenses in taking any action under this Division in relation to seized goods (including taking any action in accordance with a court order); and
- 10 (b) the expenses exceed the sum deposited, or the security given, under section 334 by the person or persons who made the request to seize or the request to continue detention in respect of the seized goods.
- (2) The excess is a debt due —
- (a) to the Government; and
- 15 (b) by that person, or by those persons jointly and severally.

Subdivision (6) — Powers to Search for Seizable Infringing Goods

Interpretation of this Subdivision

344. In this Subdivision —

- 20 “seizable goods” means goods that may be seized under Subdivision 2 or 3;
- “aircraft”, “conveyance”, “master”, “pilot of an aircraft”, “vehicle” and “vessel” have the meanings given by the Regulation of Imports and Exports Act 1995.

Powers to search vessels, aircrafts and vehicles [140M]

- 25 **345.**—(1) A senior customs officer may —
- (a) board any conveyance in Singapore; and
- (b) rummage and search all parts of the conveyance for seizable goods.

(2) In order to effectively exercise the power under subsection (1), a senior customs officer may do all or any of the following:

- (a) order the master of any vessel in Singapore to heave to;
- 5 (b) order the master of any vessel or the pilot of any aircraft in Singapore that the vessel or aircraft should not proceed unless permitted by the officer;
- (c) order a person to produce for inspection any documents that —
 - (i) should be on board any vessel or aircraft; and
 - 10 (ii) relate to any goods on the vessel or aircraft;
- (d) break open and forcibly enter any place or receptacle in any conveyance to which the officer cannot otherwise reasonably obtain access;
- 15 (e) order the master of any vessel in Singapore to cause the vessel to proceed to a specified anchorage, wharf or place to which the vessel may lawfully go;
- (f) order the master of any vessel in Singapore to move or discharge any cargo or other goods in the vessel;
- (g) order the person in charge of a vehicle —
 - 20 (i) to stop and not to proceed until so authorised; or
 - (ii) to bring the vehicle to any police station or examination station;
- (h) order that any goods from or placed in any vessel may not be removed unless permitted by the officer;
- 25 (i) order the master of any vessel or the pilot of any aircraft to produce —
 - (i) a complete manifest of the whole cargo of the vessel or aircraft; and
 - 30 (ii) a complete list of stores carried by that vessel or aircraft;

(j) take any necessary steps that the officer considers necessary to secure compliance by any vessel or aircraft with an order under this section.

(3) A customs officer may —

5 (a) exercise the power in subsection (1), but only at the general or specific directions of a senior customs officer; and

(b) exercise the powers in subsection (2) but —

(i) not the powers in paragraphs (d) and (j) of that subsection; and

10 (ii) only in respect of —

(A) a vehicle or vessel of 75 tons net tonnage or less; or

(B) a vessel under way if the officer reasonably suspects that the vessel is not in transit through Singapore.

15

(4) A customs officer who does any act in purported exercise of any power under this section is presumed, unless the contrary is proved, to have done that act at the general or specific directions of a senior customs officer.

20

(5) A person who fails to comply with an order under subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 12 months or to both.

Examination and search of packages, etc. [140N]

25

346.—(1) A customs officer or a senior customs officer may exercise the powers under subsections (2) and (3) in relation to an article if —

(a) the article is being imported or exported, or has recently been imported; and

30

(b) the officer reasonably suspects that the article is or contains a seizable copy.

(2) The customs officer or senior customs officer may —

- (a) examine and search the article;
- (b) detain the article until any person in charge of the article opens it for examination and search;
- 5 (c) perform any process to verify whether the article is or contains a seizable copy;
- (d) perform any test or analysis on the article; or
- (e) mark, lock, seal or otherwise secure the article pending examination or search.

10 (3) The senior customs officer may, and a customs officer may if ordered by the senior customs officer, forcibly open the article for the purpose of examination or search.

(4) In exercising the power under subsection (3), a senior customs officer must give the person in charge of the article every reasonable facility to be present at the opening, examination and search.

15 (5) It is an offence for a person (other than a customs officer or a senior customs officer) to remove, open, break or tamper with any mark, lock, seal or other means that is used to secure an article in exercise of the power in subsection (2)(e).

20 (6) A person who commits an offence under subsection (5) shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 6 months or to both.

(7) In this section and section 347, “article” includes package, box, chest and goods.

25 **Removal of packages, etc., to police station, etc., for examination and search [140O]**

347.—(1) For the more convenient exercise of the powers under section 346, a customs officer may —

- (a) remove an article to a police station or an examination station; or
- 30 (b) order the article to be so removed by the owner of the article, the owner’s agent, or any person who has custody, charge or control of the article.

(2) A person who fails to comply with an order under subsection (1)(b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000.

5 (3) If a person fails to comply with an order under subsection (1)(b) in relation to an article —

(a) a customs officer may remove the article under subsection (1)(a); and

10 (b) the expenses of the removal, as certified by a senior customs officer, may be recovered as a fine from that person or the owner of the article.

Search of travellers and baggage [140P]

348.—(1) This section applies to a person (called in this section a traveller) —

15 (a) who is landing, is about to land, or has recently landed, from any vessel or aircraft;

(b) who is leaving any vessel or aircraft in Singapore, whether to land or for any other purpose; or

(c) who is entering or has recently entered Singapore by land, sea or air.

20 (2) A customs officer may demand that —

(a) the traveller permits his or her person and goods to be searched by the officer for any seizable copy; or

(b) the traveller —

25 (i) goes, together with the traveller's goods, to a police station or an examination station; and

(ii) permit his or her person and goods to be searched there, in the presence and under the supervision of a senior customs officer, for seizable goods.

(3) A senior customs officer may demand that —

30 (a) the traveller permits his or her person and goods to be searched by the officer for any seizable goods; or

(b) the traveller to permit his or her person and goods to be searched, in the presence and under the supervision of the officer, for any seizable goods.

5 (4) A woman or girl may only be searched by another woman and with strict regard to decency.

(5) If a traveller requests to be present when his or her goods are searched, the goods may not be searched unless —

(a) the traveller is present; or

10 (b) the traveller is absent despite being given a reasonable facility to be present.

(6) A traveller who refuses to comply with a demand under this section may be arrested without warrant by the officer making the demand.

(7) In this section, “goods” includes baggage.

15 **Powers of customs officers to enter certain premises [140Q]**

349.—(1) For the purpose of exercising any power under 345, 346, 347 or 348, a customs officer may, without warrant, enter —

(a) any islet, landing place, wharf, dock, railway or quay;

20 (b) any premises of a provider of port services or facilities licensed or exempted under the Maritime and Port Authority of Singapore Act 1996; or

(c) any premises of any airport operated under a licence or exemption under the Civil Aviation Authority of Singapore Act 2009.

25 (2) In this section, “railway” has the meaning given by the Railways Act 1905.

Obstruction of officers [141]

350.—(1) A person commits an offence if he or she —

30 (a) refuses any customs officer or senior customs officer access to any vessel, aircraft, vehicle or place that the officer is entitled under this Subdivision; or

(b) obstructs or hinders any customs officer or senior customs officer in the exercise of any power conferred on that officer by this Subdivision,

5 (2) A person who commits an offence under subsection (1) shall be liable on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 12 months or to both.

Subdivision (7) — Administration of this Division

Appointment of persons to exercise powers and duties of customs officers [140A]

10 **351.**—(1) The Minister may appoint any person, or class of persons, to exercise the powers and perform the duties of a customs officer under this Division (including any subsidiary legislation relating to this Division).

15 (2) The Minister may appoint any person, or class of persons, to exercise the powers and perform the duties of a senior customs officer under this Division (including any subsidiary legislation relating to this Division).

(3) An appointment under this section must be made by notification in the *Gazette*.

20 **Delegation of Director-General's powers [140AA]**

25 **352.**—(1) Subject to this section, the Director-General may delegate any of his or her powers and duties under this Division (including any subsidiary legislation relating to this Division) to a senior officer of customs as defined in section 3 of the Customs Act 1960.

(2) A delegation under subsection (1) may be subject to any conditions specified by the Director-General.

(3) The power in subsection (1) may not be delegated.

Fees [140AB]

353.—(1) The Minister charged with the responsibility for customs duties may make regulations to prescribe the fees payable to the Director-General for the administration of this Division.

5 (2) Without limiting subsection (1), regulations may be made to prescribe fees for the following purposes:

(a) for the escort of a conveyance conveying seized goods;

(b) for a customs officer or a senior customs officer to attend the inspection or destruction of seized goods;

10 (c) for the attendance of a customs officer or a senior customs officer in connection with any other act or service under this Division.

PART 7

15 **ADDITIONAL RIGHTS RELATING TO
COPYRIGHT WORKS AND PROTECTED PERFORMANCES**

*Division 1 — Author’s Moral Rights***Interpretation of this Division [187]**

354. In this Division —

20 “moral right”, in relation to an author, means a right under this Division;

“name” includes initials or a monogram.

Application [new; 191]

355.—(1) This Division applies to an authorial work in which there is copyright.

25 (2) This Division does not apply to anything done outside Singapore.

(3) A moral right only applies in relation to the whole or any substantial part of an authorial work.

Right to be identified — circumstances [new]

356.—(1) Subject to this Division, the author of an authorial work has the moral right to be so identified, and that right is infringed if a person fails to identify the author —

- 5 (a) in the circumstances mentioned in this section; or
 (b) in the manner required by section 357.

(2) In the case of a work of joint authorship, the right in subsection (1) is —

- (a) a right of each joint author to be identified as an author; and
 10 (b) is not infringed in relation to a joint author if another joint author is not identified.

(3) A person must identify the author of a dramatic work or a literary work (other than a literary work consisting of words intending to be sung or spoken with music) whenever the person —

- 15 (a) publishes the work or an adaptation of the work;
 (b) performs the work, or an adaptation of the work, in public;
 (c) communicates the work, or an adaptation of the work, to the public;
 (d) supplies to the public, copies of records embodying a sound
 20 recording that includes the work, or an adaptation of the work;
 (e) supplies to the public, copies of films including the work, or an adaptation of the work; or
 (f) causes to be seen in public, a film that includes the work, or
 25 an adaptation of the work.

(4) A person must identify the author of a musical work, or a literary work consisting of words intended to be sung or spoken with music, whenever the person —

- (a) publishes the work or an adaptation of the work;
 30 (b) supplies to the public copies of records embodying a sound recording that includes the work or an adaptation of the work;

- (c) supplies to the public copies of films, of which the sound-track includes the work or an adaptation of the work; or
 - (d) causes to be seen in public a film, of which the sound-track includes the work or an adaptation of the work.
- 5 (5) A person must identify the author of an artistic work whenever the person —
- (a) publishes the work;
 - (b) exhibits the work in public;
 - (c) communicates a visual image of the work to the public;
 - 10 (d) causes to be seen in public, a film that includes a visual image of the work;
 - (e) supplies to the public copies of a film that includes a visual image of the work; or
 - (f) in the case of the following works, supplies to the public
 - 15 copies of a photograph or graphic representation of the work:
 - (i) a work of architecture in the form of a building or a model of a building;
 - (ii) a sculpture;
 - (iii) a work of artistic craftsmanship.
- 20 (6) In addition to subsection (5), the author of an artistic work in the form of a building must be identified on the first building that embodies the work.

Right to be identified — manner of identification [new]

- 25 **357.**—(1) Where an author has a moral right to be identified, he or she must be identified in accordance with this section.
- (2) The author must be identified —
- (a) in the way that the author wishes to be identified (for example, by the author’s true name or a pseudonym), but only if —

- (i) the author has made his or her wishes known, either generally or to the person who is required to identify the author; and
 - (ii) it is reasonable in the circumstances to identify the author in that way; and
- (b) in any other case, by any reasonable form of identification.

Illustration

An author may make known his or her wish to be identified in a certain way by identifying himself or herself in that way when creating or publishing the work.

- (3) Where the joint authors of an authorial work use a group name, each of them is sufficiently identified by using the group name.
- (4) In every case, the identification must be clear and reasonably prominent.
- (5) An identification is reasonably prominent if —
 - (a) in the case of section 356(3)(a), (d) and (e), (4)(a), (b) and (c), (5)(a), (e) and (f) —
 - (i) the identification appears in or on each copy; or
 - (ii) if that is not appropriate, the identification is likely to be noticed by a person acquiring a copy;
 - (b) in the case of section 356(6) — the identification is visible to persons entering or approaching the building; and
 - (c) in any other case — the identification is likely to be noticed by a person seeing or hearing the performance, exhibition, showing, or communication, as the case may be.

Right to be identified — exception where author not known
[new]

358.—(1) Section 356 does not require a person to identify the author of an authorial work if, at or during the material time, the identity of the author —

- (a) is not generally known;
- (b) is not known to the person; and

(c) could not reasonably be ascertained by the person.

Illustration

The identity of an author is known if the author is known by some name other than his or her true name.

5 (2) In subsection (1), “material time” —

- (a) in relation to section 356(3), (4) and (5), means the time at or during which the relevant act in those provisions is done; and
- (b) in relation to section 356(6), means the time during which the building is constructed.

10 **Right to be identified — exception for certain authorial works**
[new]

359. Section 356 does not apply in relation to the following authorial works:

- (a) a computer program;
- 15 (b) any authorial work, if —
 - (i) the work is made by the author in the course of his or her employment; and
 - (ii) the author’s employer is the first owner of the copyright in the work;
- 20 (c) any authorial work, if —
 - (i) the Government is the first owner of the copyright in the work; and
 - (ii) the author has not been identified in or on any published copy of the work;
- 25 (d) any prescribed authorial work.

Right to be identified — exception for certain permitted uses
[new]

360. Section 356 does not apply when a person —

(a) does an act that is a permitted use of the work under any of the following provisions:

- (i) section 255 (incidental inclusion in sound recording, film or broadcast);
 - 5 (ii) section 254 (artistic works in public places);
 - (iii) section 193 (examination purposes);
 - (iv) section 277 (judicial proceedings);
 - (v) sections 261, 263 or 264 (artistic works that have been industrially applied or with corresponding industrial design);
 - 10 (vi) a fair use of the work under section 182 for the purpose of reporting news; or
- (b) in any prescribed circumstances.

Right to be identified — transitional exceptions [new]

15 **361.**—(1) Section 356 does not apply to an author who died before the appointed date.

(2) The right in section 356 is not infringed by anything done or omitted to be done before the appointed date.

20 (3) In the case of an authorial work made before the appointed date, section 356 does not apply —

- (a) if the author is the first owner of the copyright in the work — to anything that, by virtue of an assignment of that copyright made or a licence granted by the author before the appointed date, does not infringe that copyright; and
- 25 (b) if another person is the first owner of the copyright in the work — to anything that, by virtue of an assignment of that copyright made or a licence granted by that person, does not infringe that copyright.

30 (4) In this section, “appointed date” means the date of commencement of section 356.

Right against false identification [188 (*author*)]

5 **362.**—(1) The author (A) of an authorial work has the moral right to not have any other person (F) identified as the author of the work, and a person (X) infringes that right in the circumstances mentioned in this section.

(2) In the case of a work of joint authorship, an infringement of the right in subsection (1) is an infringement of each joint author’s right.

Illustration

10 A1 and A2 are the joint authors of an authorial work. X affixes the names of A1 and F on a reproduction of the work in a way that implies that A1 and F are joint authors of the work. X has infringed the rights of both A1 and A2 under subsection (1).

(3) X infringes the right in subsection (1) if —

15 (a) X affixes or inserts F’s name in, or on, the work or a reproduction of the work; and

(b) the affixation or insertion is done in a way that implies that —

(i) F is the author of the work; or

(ii) the work is an adaptation of a work by F.

(4) X infringes the right in subsection (1) if —

20 (a) X performs the work in public or communicates the work to the public;

(b) the performance or communication is done in a way that implies that—

(i) F is the author of the work; or

25 (ii) the work is an adaptation of a work by F; and

(c) X knows that the implication in paragraph (b)(i) or (ii) (as the case may be) is false.

(5) X infringes the right in subsection (1) if —

30 (a) F’s name is affixed or inserted in or on a reproduction of the work;

(b) the affixation or insertion is done in a way that implies that —

- (i) F is the author of the work; or
- (ii) the work is an adaptation of a work by F;
- (c) X knows that the implication in paragraph (b)(i) or (ii) (as the case may be) is false; and
- 5 (d) X —
 - (i) publishes the reproduction;
 - (ii) deals commercially in the reproduction; or
 - (iii) distributes the reproduction.
- (6) For the purposes of subsection (5), “reproduction”, in relation
10 to a work, includes the work itself.
- (7) To avoid doubt, X and F could be the same person.

Right not to be falsely identified as author of reproduction of artistic work [190]

- 15 **363.**—(1) The author of an artistic work has the moral right not to be identified as the author of a reproduction of the work that was not made by him or her.
- (2) A person infringes the right in subsection (1) if —
- (a) the person —
 - 20 (i) publishes a reproduction of the work as being made by the author;
 - (ii) deals commercially in a reproduction of the work as being made by the author; or
 - (iii) distributes reproductions of the work as being made by the author; and
 - 25 (b) the person knows that the reproduction or reproductions were not made by the author.

Right not to have altered copy represented as unaltered [189 (author)]

- 30 **364.**—(1) The author of an authorial work has the moral right not to have an altered copy of the work represented as being unaltered.

(2) A person (X) infringes the right in subsection (1) if —

(a) X —

(i) publishes an altered copy of the work as being unaltered;

5 (ii) deals commercially in an altered copy of the work as being unaltered; or

(iii) distributes an altered copy of the work as being unaltered;

(b) X knows that the copy is an altered copy; and

10 (c) the alteration is not made by the author.

(3) In the case of a work of joint authorship —

(a) any infringement of the right in subsection (1) is an infringement of each joint author’s right; and

15 (b) the reference to the author in subsection (2)(c) is a reference to all the joint authors.

(4) In this section, “copy”, in relation to a work, means the work itself or a reproduction of the work.

Rights not infringed by acts done with consent [new; 191]

20 **365.**—(1) Despite any provision of this Division, the moral rights of an author are not infringed by any act or omission that the author consented to in writing.

(2) In the case of a work of joint authorship, the consent of a joint author to any act or omission affecting his or her moral rights does not affect the moral rights of the other joint author or authors.

Action for infringement [new; 192(1)]

366. The author of an authorial work may bring an action against any person who infringes any of the author’s moral rights.

Remedies [new; 192(2)]

367.—(1) In an action under section 366, the remedies that the court may grant include an injunction (which may be subject to terms) and damages.

5 (2) In deciding on the appropriate remedy, the court may have regard to the following factors:

- (a) whether the defendant was aware, or ought reasonably to have been aware, of the author’s moral rights;
- (b) the number and categories of people who have seen or heard
10 the work;
- (c) anything done by the defendant to mitigate the effects of the infringement;
- (d) in the case of the moral right under section 356 (right to be identified) — the cost or difficulty (if any) of identifying the
15 author;
- (e) the cost or difficulty (if any) of reversing an infringing act;
- (f) any practice in the industry in which the work is used that is relevant to the work or the use of the work;
- (g) the damage caused to the author by the infringement,
20 including any loss of income.

Rights not assignable [new]

368. An author’s moral rights are personal to him or her, and are not assignable.

Devolution on death [new; 188(3); 192(3)]

25 **369.**—(1) When an author dies —

- (a) the author’s moral rights devolves to his or her personal legal representative; and
- (b) any damages recovered in an action under section 366 by the personal legal representative forms part of the author’s estate.

(2) To avoid doubt, any consent given by an author in relation to the author's moral rights binds his or her personal legal representative.

Other rights not affected [193]

5 **370.**—(1) Subject to this section, this Division does not affect any right of action or other remedy, whether civil or criminal, in proceedings instituted otherwise than by virtue of this Division.

(2) Any damages recovered in an action under section 366 must be considered in assessing damages in any other proceedings arising out of the same transaction.

10

(3) Any damages recovered in proceedings other than an action under section 366 must be considered in assessing damages in an action under section 366 arising out of the same transaction.

Division 2 — Performer's Moral Rights

15 **Interpretation of this Division [187]**

371. In this Division —

“moral right”, in relation to a performer, means a right under this Division;

“name” includes initials or a monogram.

20 **Application and duration [new; 191]**

372.—(1) This Division applies to a protected performance.

(2) This Division does not apply to anything done outside Singapore.

(3) A moral right only applies in relation to the whole or a substantial part of a performance.

25

Right to be identified — circumstances [new]

373.—(1) Subject to this Division, the performer of a protected performance has the moral right to be so identified, and that right is infringed if a person fails to identify the performer —

(a) in the circumstances mentioned in this section; or

(b) in the manner required by section 374.

(2) In the case of a performance with more than one performer, the right in subsection (1) —

5 (a) is a right of each performer to be identified as a performer; and

(b) is not infringed in relation to a performer if another performer is not identified.

(3) A person (X) must identify the performer of a performance —

10 (a) if the performance is given in public and produced or put on by X;

(b) if X communicates the performance live to the public;

15 (c) whenever X makes available a sound recording of the performance to the public (on a network or otherwise) in a way that enables the recording to be accessed by any person from a place and at a time chosen by the person; or

(d) whenever X publishes a sound recording of the performance.

Right to be identified — manner of identification [new]

20 **374.**—(1) Where a performer must be identified under this Division, he or she must be identified in accordance with this section.

(2) The performer must be identified —

(a) in the way that the performer wishes to be identified (for example by the performer's true name or by a stage name or pseudonym), but only if —

25 (i) the performer has made his or her wishes known, either generally or to the person who is required to identify the performer; and

(ii) it is reasonable in the circumstances to identify the performer in that way; and

30 (b) in any other case, by any reasonable form of identification.

(3) Where a performance is given by performers who use a group name, those performers are sufficiently identified by using the group name.

5 (4) In every case, the identification must be clear, and reasonably prominent.

(5) An identification is reasonably prominent if —

(a) in the case of copies of a sound recording of the performance —

(i) the identification appears in or on each copy; or

10 (ii) the identification is likely to be noticed by a person acquiring a copy; and

(b) in any other case — the identification is likely to be noticed by a person seeing or hearing (as the case may be) the performance or communication.

15 **Right to be identified — exception where performer not known**

375.—(1) Section 373 does not require a person to identify the performer of a performance if, at or during the material time, the identity of the performer —

(a) is not generally known;

20 (b) is not known to the person; and

(c) could not reasonably be ascertained by the person.

Illustration

The identity of a performer is known if the performer is known by some name other than his or her true name.

25 (2) In subsection (1), “material time” means the time at or during which the relevant act in section 373(3) is done.

Right to be identified — exception for certain performances

376. Section 373 does not apply to the following performances:

30 (a) a performance given for the purpose of advertising any goods or services;

(b) any prescribed performance.

Right to be identified — exception for certain permitted uses

377. Section 373 does not apply—

5 (a) when a person does an act that is a permitted use of the performance under any of the following provisions:

(i) section 193 (examination purposes);

(ii) section 277 (judicial proceedings);

(iii) a fair use under section 182 for the purpose of reporting news section 186 (reporting news); and

10 (b) in any prescribed circumstances.

Right to be identified — transitional exception [new]

378. Section 373 does not apply to a performance given before the date of its commencement.

Right against false identification [188 (performer)]

15 **379.**—(1) The performer (P) of a performance has the moral right not to have any other person (F) identified as the performer of the performance, and a person (X) infringes that right in the circumstances mentioned in this section.

20 (2) In the case of a performance with more than one performer, an infringement of the right in subsection (1) in relation to the performance is an infringement of each performer's right.

Illustration

25 A performance is given by P1 and P2. X affixes the names of P1 and F on a recording of the performance in a way that implies that P1 and F are the performers. X has infringed the rights of both P1 and P2 under subsection (1).

(3) X infringes the right in subsection (1) if —

(a) X affixes or inserts F's name in or on a recording of the performance; and

30 (b) the affixation or insertion is done in a way that implies that F is the performer.

- (4) X infringes the right in subsection (1) if —
- (a) X makes available a recording of the performance to the public as being a performance by F; and
 - (b) X knows that F is not the performer.
- 5 (5) X infringes the right in subsection (1) if —
- (a) F's name is affixed or inserted in or on a recording of the performance;
 - (b) the affixation or insertion is done in a way that implies F is the performer;
 - 10 (c) X knows that F is not the performer; and
 - (d) X —
 - (i) publishes the recording;
 - (ii) deals commercially in the recording; or
 - (iii) distributes the recording.
- 15 (6) To avoid doubt, X and F could be the same person.

Right not to have altered recording represented as unaltered
[189 (*performer*)]

- 380.**—(1) The performer of a performance has the moral right not to have an altered recording of the performance represented as being unaltered.
- 20 (2) A person (X) infringes the right in subsection (1) if —
- (a) X —
 - (i) publishes an altered recording of the performance as being unaltered;
 - 25 (ii) deals commercially in an altered recording of the performance as being unaltered; or
 - (iii) distributes an altered recording of the performance as being unaltered;
 - (b) X knows that the recording is an altered recording; and

(c) the alteration is not made by the performer.

(3) In the case of a performance by more than one performer, an infringement of the right in subsection (1) is an infringement of each performer's right.

5 **Rights not infringed by acts done with consent [new; 191]**

381.—(1) Despite any provision of this Division, the moral rights of a performer are not infringed by any act or omission that the performer consented to in writing.

10 (2) In the case of a performance by more than one performer, the consent of a performer to any act or omission affecting his or her moral rights does not affect the moral rights of the other performer or performers.

Action for infringement [new; 192(1)]

15 **382.** The performer of a performance may bring an action against any person who infringes any of the performer's moral rights.

Remedies [new; 192(2)]

383.—(1) In an action under section 382, the remedies that the court may grant include an injunction (which may be subject to terms) and damages.

20 (2) In deciding on the appropriate remedy, the court may have regard to the following factors:

- (a) whether the defendant was aware, or ought reasonably to have been aware, of the performer's moral rights;
- 25 (b) the number and categories of people who have seen or heard the performance;
- (c) anything done by the defendant to mitigate the effects of the infringement;
- (d) in the case of the moral right under section 373 (right to be identified) — the cost or difficulty (if any) of identifying the performer;
- 30 (e) the cost or difficulty (if any) of reversing an infringing act;

(f) any practice in the industry in which the performance is used that is relevant to the performance or the use of the performance;

5 (g) the damage caused to the performer by the infringement, including any loss of income.

Rights not assignable [new]

384. A performer's moral rights are personal to him or her, and are not assignable.

Devolution on death [new; 188(3); 192(3)]

10 **385.**—(1) When a performer dies —

(a) the performer's moral rights devolves to his or her personal legal representative; and

(b) any damages recovered in an action under section 382 by the personal legal representative forms part of the performer's estate.

15

(2) To avoid doubt, any consent given by a performer in relation to the performer's moral rights binds his or her personal legal representative.

Other rights not affected [193]

20 **386.**—(1) Subject to this section, this Division does not affect any right of action or other remedy, whether civil or criminal, in proceedings instituted otherwise than by virtue of this Division.

(2) Any damages recovered in an action under section 382 must be considered in assessing damages in any other proceedings arising out of the same transaction.

25

(3) Any damages recovered in proceedings other than an action under section 382 must be considered in assessing damages in an action under section 382 arising out of the same transaction.

*Division 3 — Protection of
Electronic Rights Management Information*

Interpretation of this Division [new]

387. In this Division —

5 “protected copy” means —

- (a) a work in which there is copyright, or a copy of the work; or
- (b) a recording of a protected performance;

10 “rights owner” also includes, in relation to a copyright, any exclusive licensee of the copyright.

What is rights management information [258]

388. In this Division, “rights management information”, in relation to a protected copy —

(a) means any of the following:

- 15 (i) information that identifies the work or performance;
- (ii) information that identifies —
 - (A) if the protected copy is an authorial work — the copyright owner or the author;
 - (B) if the protected copy is a work other than an authorial work — the copyright owner; or
 - 20 (C) if the protected copy is a recording of a protected performance — the rights owner or the performer;
- 25 (iii) information about the terms and conditions of use of the copy;
- (iv) any numbers or codes that represent the information mentioned in sub-paragraph (i), (ii) or (iii); but

- (b) excludes any information relating to a user of the copy, including the name, account, address, or other contact information, of the user.

Application and duration [259(1), 260(1)]

5 **389.**—(1) This Division applies where rights management information in an electronic form —

- (a) is attached to or embodied in a protected copy; or
 (b) appears in connection with the communication or making available to the public of any protected copy.

10 (2) This Division does not apply to anything done for the service of the Government.

Prohibition on removing or altering rights management information [260(2)]

390. A person commits a wrong if the person —

- 15 (a) knowingly removes or alters any rights management information relating to a protected copy;
 (b) does so without the rights owner’s authority; and
 (c) knows or ought reasonably to know that the removal or alteration of the rights management information will induce, enable, facilitate or conceal a rights infringement relating to the protected copy.
- 20

Prohibition on dealing with altered rights management information [260(3)]

391. A person commits a wrong if the person —

- 25 (a) distributes, or imports for distribution, any rights management information that —
 (i) relates to a protected copy; and
 (ii) has been altered without the rights owner’s authority;
 (b) does so without the rights owner’s authority;

- (c) does so knowing that the rights management information has been altered without the rights owner's authority; and
- (d) knows or ought reasonably to know that doing so will induce, enable, facilitate or conceal a rights infringement relating to the protected copy.

Prohibition on dealing with protected copies after rights management information altered or removed [260(4)]

392. A person commits a wrong if the person —

- (a) distributes, imports for distribution, communicates or makes available to the public protected copies from which the rights management information has been removed or altered without the rights owner's authority;
- (b) does so without the rights owner's authority;
- (c) does so knowing that the rights management information has been removed or altered without the rights owner's authority; and
- (d) knows or ought reasonably to know that doing so will induce, enable, facilitate or conceal a rights infringement relating to the protected copies.

Action for wrong [new]

393. The rights owner of a protected copy can bring an action against a person who commits a wrong under this Division in relation to the protected copy.

Limitation of action [260(5)]

394. An action may not be brought in respect of any wrong under this Division more than 6 years from the time the wrong was committed.

Remedies [261]

395.—(1) Subject to this section, the remedies that a court may grant for a wrong under this Division include —

- (a) an injunction (subject to such terms (if any) as the court thinks fit);
 - (b) damages;
 - (c) an account of profits;
 - 5 (d) if the claimant so elects, up to \$20,000 in statutory damages; and
 - (e) an order that an offending article be delivered up to the rights owner or destroyed.
- (2) Subject to subsection (3), the remedies in paragraphs (b), (c) and (d) of subsection (1) are mutually exclusive.
- (3) The court may order both damages and an account of profits in respect of a wrong under this Division, but only if the damages do not include the profits attributable to the wrong.
- (4) In deciding the amount of statutory damages under subsection (1)(d), the court must consider —
- 15 (a) the nature and purpose of the act constituting the wrong, including whether the act was of a commercial nature or otherwise;
 - (b) the flagrancy of the wrong;
 - 20 (c) whether the defendant acted in bad faith;
 - (d) any loss that the claimant has suffered or is likely to suffer because of the wrong;
 - (e) any benefit gained by the defendant because of the wrong;
 - (f) the conduct of the parties before and during the proceedings;
 - 25 (g) the need to deter other similar wrongs; and
 - (h) all other relevant matters.
- (5) In this section, “offending article” means an article —
- (a) by means of which, or in relation to which, a wrong was or is being carried out; and
 - 30 (b) that is in the possession of the defendant or before the court.

Offence [260(6), (7), (8); 261A(1)]

396.—(1) Subject to this section, a person commits an offence if —

- (a) the person wilfully commits a wrong under this Division; and
- (b) does so to obtain a commercial advantage or private financial gain.

5

(2) Subsection (1) does not apply to any act done by or on behalf of —

- (a) a non-profit library or archive;
- (b) an educational institution;
- (c) an institution aiding persons with print disabilities;
- (d) an institution aiding persons with print disabilities; or
- (e) a public and non-commercial broadcasting organisation that is prescribed.

10

(3) For the purposes of subsection (1), a person does an act to obtain a commercial advantage if and only if the act is done to obtain a direct advantage, benefit or financial gain for a business or trade carried on by him.

15

(4) A person who commits an offence under subsection (1) shall be liable on conviction —

- (a) for a wrong under section 390, to a fine not exceeding \$20,000; or
- (b) for a wrong under section 391 or 392, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

20

(5) If —

25

- (a) proceedings are brought against a person for an offence under subsection (1); and
- (b) there is in the person's possession or before the court an article that appears to be —

- (i) protected copies from which the rights management information has been removed or altered without the rights owner’s authority; or
- (ii) used predominantly for removing or altering the rights management information relating to a protected copy,
- 5 the court may (whether or not the person is convicted of the offence) make an order for the article to be —
- (c) destroyed;
- (d) delivered to the rights owner of the protected copy; or
- 10 (e) otherwise dealt with.

Other rights not affected [259(2)]

- 397.** This Division does not affect —
- (a) any copyright in a work;
- (b) any other right in relation to a performance or a recording of the performance;
- 15 (c) any limitation on the rights in paragraph (a) or (b); or
- (d) any defence to an action for a rights infringement.

Division 4 — Protection of Technological Measures

Interpretation of this Division

- 20 **398.** In this Division —
- “access control measure” has the meaning given by section 399;
- “circumvent” means to avoid, bypass, remove, deactivate, descramble (where the copy is scrambled), decrypt (where the copy is encrypted) or otherwise impair;
- 25 “deal” means —
- (a) in relation to a device, product or component — to manufacture, import, distribute, offer to the public, provide or otherwise traffic; and

(b) in relation to a service — to offer to the public or provide;

and “dealing” has a corresponding meaning;

“protected copy” means —

5 (a) a work in which there is copyright, or a copy of the work; or

(b) a recording of a performance whose protection period has not expired, or a copy of the recording;

“protection measure” has the meaning given by section 399;

10 “rights owner” also includes, in relation to a copyright, any exclusive licensee of the copyright;

“technological measure” means —

(a) an access control measure as defined in section 399; or

(b) a protection measure as defined in section 399.

15 **What are access control measures and protection measures**
[261B(1)]

399. In this Division —

“access control measure”, in relation to a protected copy —

20 (a) means any technology, device or component that, in the normal course of its operation, effectively controls access to a protected copy; but

(b) excludes any prescribed technology, device or component;

“protection measure”, in relation to a protected copy —

25 (a) means any technology, device or component that, in the normal course of its operation, effectively prevents or limits the doing of any act that amounts to a rights infringement; but

30 (b) excludes any prescribed technology, device or component.

Application [261B(1) and (2), 261C(1), 261C(10)]

400.—(1) This Division applies in relation to protected copies.

(2) This Division does not prohibit a person from importing or selling a device that does not render effective a technological measure, but only if —

- (a) the sole purpose of the measure is to control market segmentation for access to films; and
- (b) the import or sale of the device does not otherwise contravene any written law (including this Act).

Prohibition on circumventing access control measure [261C(1)(a)]

401.—(1) Subject to the provisions of this Division, a person must not circumvent an access control measure.

(2) For the purposes of this Division, a person circumvents an access control measure if —

- (a) the access control measure is applied —
 - (i) to a protected copy;
 - (ii) by or with the authority of the rights owner of the protected copy; and
 - (iii) in connection with the exercise of the copyright or any right in the performance, as the case may be;
- (b) the person does any act that the person knows, or ought reasonably to know, circumvents the access control measure; and
- (c) the act is done without the rights owner’s authority.

Prohibition on dealing in circumventing devices [261C(1)(b), (6)]

402.—(1) Subject to the provisions of this Division, a person must not deal (wilfully or otherwise) in a circumventing device.

(2) For the purposes of this Division, a person deals in a circumventing device if —

- (a) a technological measure is applied —
- (i) to a protected copy;
 - (ii) by or with the authority of the rights owner of the protected copy; and
 - 5 (iii) in connection with the exercise of the copyright or any right in the performance, as the case may be;
- (b) the person deals in any device, product or component that —
- (i) is promoted, advertised or marketed for the purpose of circumventing the measure;
 - 10 (ii) has only a limited commercially significant purpose or use other than to circumvent the measure; or
 - (iii) is designed or made primarily for the purpose of circumventing the measure; and
- (c) the person does so without the right owner's authority.
- 15 (2) A person wilfully deals in a circumventing device if and only if —
- (a) in relation to subsection (1)(b)(i) — the promotion, advertising or marketing was —
 - (i) done by the person personally; or
 - 20 (ii) personally authorised by the person;
 - (b) in relation to subsection (1)(b)(ii) — at the time of dealing, the person knew or had reason to believe that the device, product, component or service (as the case may be) had only a limited commercially significant purpose or use other than
 - 25 to circumvent the technological measure; and
 - (c) in relation to subsection (1)(b)(iii) — at the time of dealing, the person knew or had reason to believe that the device, product or component was designed or made primarily for the purpose of circumventing the technological measure.

Prohibition on dealing in circumventing services [261C(1)(c), (7)]

403.—(1) Subject to the provisions of this Division, a person must not deal (wilfully or otherwise) in a circumventing service.

5 (2) For the purposes of this Division, a person deals in a circumventing service if —

(a) a technological measure is applied —

(i) to a protected copy;

10 (ii) by or with the authority of the rights owner of the protected copy; and

(iii) in connection with the exercise of the copyright or any right in the performance, as the case may be;

(b) the person deals in any service that —

15 (i) is promoted, advertised or marketed for the purpose of circumventing the measure;

(ii) has only a limited commercially significant purpose or use other than to circumvent the measure; or

(iii) is performed primarily for the purpose of circumventing the measure; and

20 (c) the person does so without the right owner's authority.

(2) A person wilfully deals in a circumventing service if and only if —

(a) in relation to subsection (1)(b)(i) — the promotion, advertising or marketing was —

25 (i) done by the person personally; or

(ii) personally authorised by the person;

30 (b) in relation to subsection (1)(b)(ii) — at the time of dealing, the person knew or had reason to believe that the service (as the case may be) had only a limited commercially significant purpose or use other than to circumvent the technological measure; and

(c) in relation to subsection (1)(b)(iii) —

- (i) the person personally performed the service primarily for the purpose of circumventing the technological measure; or
- 5 (ii) the person personally authorised the performance of the service primarily for the purpose of circumventing the technological measure.

Exception — access by non-profit library, etc., for purpose of acquisition [261D(1)(a), (3)(c)]

10 **404.** A person may circumvent an access control measure by doing an act in relation to a protected copy if —

- (a) the act is done to enable any of the following organisations to have access to the work or recording of a performance:
 - (i) a non-profit library;
 - 15 (ii) any non-profit archives;
 - (iii) an educational institution;
 - (iv) an institution aiding persons with print disabilities;
 - (v) an institution aiding persons with intellectual disabilities;
- 20 (b) the sole purpose of accessing the work or recording is to decide whether to acquire a copy of it;
- (c) the work or recording is otherwise not available to the organisation;
- (d) the act does not lead to a rights infringement in relation to the protected copy; and
- 25 (e) the act does not violate any other written law.

Exception — protection of personal information of network user [261D(1)(b), (3)(a)]

30 **405.** A person may circumvent an access control measure by doing an act in relation to a protected copy if —

- (a) the access control measure is capable of collecting or disseminating information about the identity of a user of a network and the manner of his or her use;
- 5 (b) there is no conspicuous notice of the collection or dissemination of that information;
- (c) the act is done for the sole purpose of identifying and disabling the measure;
- (d) the act does not affect any person's ability to access any protected copy;
- 10 (e) the act is not a rights infringement in relation to the protected copy; and
- (f) the act does not violate any written law other than this Act.

Exception — achieving interoperability between computer programs [261D(1)(d), (3)(b); 261E(1)(a)]

- 15 **406.**—(1) A person may circumvent a technological measure by doing an act in relation to a protected copy that is a computer program if —
- (a) the protected copy is not an infringing copy;
 - (b) the act is done —
 - 20 (i) in good faith;
 - (ii) with respect to particular elements of the computer program that are not readily available to the person doing the act; and
 - 25 (iii) for the sole purpose of achieving interoperability of an independently created computer program with another computer program; and
 - (c) the act does not infringe the copyright in the computer program mentioned in paragraph (b)(ii).
- (2) A person may deal in a circumventing device if —
- 30 (a) the device is used only in circumstances to which subsection (1) applies; or

(b) at the time of dealing, the person does not know and has no reason to believe that the device will be used in any other circumstances.

(3) A person may deal in a circumventing service if —

5 (a) the service is performed only in circumstances to which subsection (1) applies; or

(b) at the time of dealing, the person does not know and has no reason to believe the service will be performed in any other circumstances.

10 **Exception — research on encryption technology [261D(1)(e), (3)(a) and (b); 261B(1); 261E(1)(b), (2), (3)(b)]**

407.—(1) A person may circumvent an access control measure by doing an act in relation to a protected copy if —

15 (a) the act is done in the course of research on any encryption technology and is needed to conduct that research;

(b) the person —

(i) is engaged in a legitimate course of study in the field of encryption technology;

20 (ii) is employed or appropriately trained or experienced in that field; or

(iii) is doing the act on behalf of a person so engaged, employed, trained or experienced;

(c) the act is done in good faith;

25 (d) the protected copy is not an infringing copy of a work or an unauthorised recording of a performance;

(e) the person doing the act has made a reasonable effort to obtain the authorisation of the rights owner;

(f) the act is not a rights infringement in relation to the protected copy; and

30 (g) the act does not violate any written law other than this Act.

(2) A person may deal in a circumventing device if —

(a) the device is used only in circumstances to which subsection (1) applies; or

(b) at the time of dealing, the person does not know and has no reason to believe that the device will be used in any other circumstances.

(3) A person may deal in a circumventing service if —

(a) the service is performed only in circumstances to which subsection (1) applies; or

(b) at the time of dealing, the person does not know and has no reason to believe the service will be performed in any other circumstances.

(4) In this section, “encryption technology” means any technology for scrambling and descrambling information using mathematical formulae or algorithms.

Exception — preventing minor access to online material
[261D(1)(f); 261E(1)(c), (2)]

408.—(1) A person may circumvent an access control measure by doing an act if —

(a) the act consists of including a component or part in any technology, product or device for the sole purpose of preventing access by minors to any material on the Internet; and

(b) the technology, product or device —

(i) is not promoted, advertised or marketed for the purpose of circumventing a technological measure;

(ii) has more than a limited commercially significant purpose or use other than to circumvent a technological measure; and

(iii) is not designed or made primarily for the purpose of circumventing a technological measure.

(2) A person may deal in a circumventing device if the device is meant to be included in any technology, product or device in circumstances to which subsection (1) applies.

Exception — testing of security flaws, etc., of computer

5 **[261D(1)(g), (3)(a) and (b); 261E(1)(d), (2), (3)(b)]**

409.—(1) A person may circumvent an access control measure by doing an act in relation to a protected copy if —

- (a) the act is done for the sole purpose of testing, investigating or correcting a security flaw or vulnerability of a computer;
- 10 (b) the act is done in good faith;
- (c) the act is done by or with the authority of the owner of the computer;
- (d) the act is not a rights infringement in relation to the protected copy; and
- 15 (e) the act does not violate any written law other than this Act.

(2) A person may deal in a circumventing device if —

- (a) the device is used only in circumstances to which subsection (1) applies; or
- 20 (b) at the time of dealing, the person does not know and has no reason to believe that the device will be used in any other circumstances.

(3) A person may deal in a circumventing service if —

- (a) the service is performed only in circumstances to which subsection (1) applies; or
- 25 (b) at the time of dealing, the person does not know and has no reason to believe the service will be performed in any other circumstances.

(4) In this section, “computer” includes a computer system and a computer network.

Exception — law enforcement, national defence, etc.
[261D(1)(h)]

5 **410.** The Government, or a person authorised by the Government, may for the purpose of law enforcement, intelligence, national defence, essential security, or for any other similar purpose —

- (a) circumvent an access control measure; or
- (b) deal in a circumventing device or service.

Exception — prescribed exceptions [261D(1)(c), (2), (2A), (3)(b)]

10 **411.—(1)** A person may circumvent an access control measure if a prescribed exception applies.

(2) An exception may be prescribed if —

(a) if the Minister is satisfied that a dealing in relation to a work or performance has been or is likely to be impaired or adversely affected by the prohibition on circumventing access control measures; and

15

(b) the dealing is not a rights infringement in relation to the work or performance.

(3) A prescribed exception may be limited —

- (a) to a specified work or performance;
- 20 (b) to a class of works or performances;
- (c) to a class of persons; and
- (d) by the purpose for which the otherwise circumventing act is done.

Action for prohibited circumvention or dealing [261C(2)]

25 **412.** The rights owner of a protected copy can bring an action against a person who, in contravention of this Division —

- (a) circumvents an access control measure in relation to the protected copy; or
- 30 (b) deals in a circumventing device or service in relation to the protected copy.

Limitation of action [261C(3)]

413. An action may not be brought under section 412 more than 6 years from the time of the circumvention or dealing, as the case may be.

5 **Remedies [261F]**

414.—(1) The remedies that a court may grant in an action under section 412 include —

- (a) an injunction (subject to such terms (if any) as the court thinks fit);
- 10 (b) either —
 - (i) damages; or
 - (ii) if the claimant so elects, up to \$20,000 in statutory damages; and
- (c) an order that an offending article be delivered up to the rights owner or destroyed.

15 (2) The remedies in subsection (1)(b) are not available against a defendant who deals in a circumventing device or service if it is proved that the dealing was not wilful.

20 (3) Damages under subsection (1)(b)(i) may take into account any profits that are attributable to the circumventing act.

(4) In awarding statutory damages under subsection (1)(b)(ii), the court must have regard to all relevant matters, including —

- (a) the nature or purpose of the act concerned, including whether the act was of a commercial nature or otherwise;
- 25 (b) the flagrancy of the act;
- (c) whether the defendant acted in bad faith;
- (d) any loss that the plaintiff has suffered or is likely to suffer by reason of the act;
- (e) any benefit shown to have accrued to the defendant by reason
- 30 of the act;

(f) the conduct of the parties before or during the proceedings;
and

(g) the need to deter other similar acts.

(5) In this section, “offending article” means an article —

5 (a) by means of which, or in relation to which, a circumvention of an access control measure, or a dealing in a circumventing device or service, was or is being carried out; and

(b) that is in the possession of the defendant or before the court.

Offences [261C(4), (5), (8), (9); 261G(1)]

10 **415.**—(1) Subject to this section, a person commits an offence if —

(a) the person —

(i) wilfully circumvents an access control measure; or

(ii) wilfully deals in a circumventing device or service;
and

15 (b) does so to obtain a commercial advantage or private financial gain.

(2) Subsection (1) does not apply to any act done by or on behalf of —

(a) a non-profit library or archive;

20 (b) an educational institution;

(c) an institution aiding persons with print disabilities;

(d) an institution aiding persons with intellectual disabilities; or

(e) a public and non-commercial broadcasting organisation that is prescribed.

25 (3) For the purposes of subsection (1), a person does an act to obtain a commercial advantage if and only if the act is done to obtain a direct advantage, benefit or financial gain for a business or trade carried on by him or her.

30 (4) A person who commits an offence under subsection (1) shall be liable on conviction —

(a) in relation to subsection (1)(a)(i), to a fine not exceeding \$20,000; and

(b) in relation to subsection (1)(a)(ii), to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

5

(5) If —

(a) proceedings are brought against a person for an offence under subsection (1); and

10

(b) an article that appears to be predominantly used for circumventing a technological measure that is used in connection with the exercise of the copyright or any right in the performance (as the case may be) —

(i) is in the person's possession; or

(ii) is before the court,

15

the court may (whether or not the person is convicted of the offence) make an order for the article to be —

(c) destroyed;

(d) delivered to the rights owner of the protected copy; or

(e) otherwise dealt with.

20

Other rights not affected [261B(3)]

416. This Division does not affect —

(a) any copyright in a work;

(b) any other right in relation to a performance or a recording of the performance;

25

(c) any limitation on the rights in paragraph (a) or (b); or

(d) any defence to an action for a rights infringement.

PART 8

OFFENCES

Division 1 — Offences with commercial element

5 **Commercial dealings, etc., in infringing copies [136(1), (2)(a), (b) and (c), (3)(a); 254A(1), (2) and (3)]**

417.—(1) A person commits an offence if —

(a) at any time where there is copyright in a work, the person does any of the following acts:

- (i) makes an article for sale or hire;
- 10 (ii) deals in an article commercially;
- (iii) imports an article for the purpose of dealing in the article commercially;
- (iv) possesses an article for the purpose of dealing in the article commercially; and
- 15 (b) at the time of doing the act, the person knows or ought reasonably to know that the article is an infringing copy of the work.

(2) A person commits an offence if —

20 (a) at any time during the protection period of a performance, the person does any of the following acts:

- (i) makes an article for sale or hire;
- (ii) deals in an article commercially;
- (iii) imports an article for the purpose of dealing in the article commercially;
- 25 (iv) possesses an article for the purpose of dealing in the article commercially; and
- (b) at the time of doing the act, the person knows or ought reasonably to know that the article is an infringing copy of the performance.

Wilful infringement for commercial advantage [136(3A)(c)(ii), (6B); 254A(3A)(c)(ii)]

418.—(1) A person commits an offence if the person wilfully commits a rights infringement to obtain a commercial advantage.

- 5 (2) For the purposes of subsection (1), a person does an act to obtain a commercial advantage if and only if the act is done to obtain a direct advantage, benefit or financial gain for a business or trade carried on by the person.

Making or possessing article capable of making infringing copies [136(4); 254A(4)]

10

419.—(1) A person commits an offence if —

- (a) at any time where there is copyright in a work, the person makes or possesses an article that is capable of being used to make infringing copies of the work; and
- 15 (b) the person knows or ought reasonably to know that the article is to be used to make infringing copies of the work for the purpose of commercial dealing.

(2) A person commits an offence if —

- (a) at any time during the protection period of a performance, the person makes or possesses an article that is capable of being used to make infringing copies of the performance; and
- 20 (b) the person knows or ought reasonably to know that the article is to be used to make infringing copies of the performance for the purpose of commercial dealing.

Punishment [new]

25

420.—(1) A person convicted of an offence under section 417 shall be liable—

(a) in the case of an individual —

(i) to a fine not exceeding the higher of the following:

- 30 (A) \$100,000;

- (B) \$10,000 for each article in respect of which the offence is committed;
- (ii) to imprisonment for a term not exceeding 5 years; or
- (iii) to both; and
- 5 (b) in any other case — to a fine not exceeding the higher of the following:
 - (i) \$200,000;
 - (ii) \$20,000 for each article in respect of which the offence is committed.
- 10 (2) A person convicted of an offence under section 418 or 419 shall be liable—
 - (a) in the case of an individual — to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both; and
 - 15 (b) in any other case — to a fine not exceeding \$200,000.

Division 2 — Offences without commercial element

Distribution, etc., of infringing copies [136(2)(b), (3)(b)]

421. A person commits an offence if —

- 20 (a) at any time where there is copyright in a work, the person does any of the following acts:
 - (i) distributes an article —
 - (A) other than for the purposes of trade; and
 - (B) to an extent that will prejudicially affect the copyright owner;
 - 25 (ii) imports an article for the purpose of distributing the article —
 - (A) other than for the purposes of trade; and
 - (B) to an extent that will prejudicially affect the copyright owner;

(iii) possesses an article for the purpose of distributing the article —

(A) other than for the purposes of trade; and

(B) to an extent that will prejudicially affect the copyright owner; and

(b) at the time of doing the act, the person knows or ought reasonably to know that the article is an infringing copy of the work.

Wilful and significant rights infringement [136(3A)(c)(i), (6A); 254A(3A)(c)(i)]

422.—(1) A person commits an offence if —

(a) the person wilfully commits a rights infringement; and

(b) the extent of the infringement is significant.

(2) The following matters must be considered in deciding whether the extent of a rights infringement is significant for the purposes of subsection (1):

(a) the volume of any articles that are infringing copies;

(b) the value of any articles that are infringing copies;

(c) whether the infringement has a substantial prejudicial impact on the rights owner;

(d) all other relevant matters.

Causing certain works and performances to be performed, seen or heard in public for private profit [136(6); 254A(5), (6)]

423.—(1) A person commits an offence if —

(a) the person —

(i) causes a literary, dramatic or musical work to be performed in public; or

(ii) causes a film to be seen or heard (or both) in public; and

(b) the person does so —

- (i) other than by the reception of a television broadcast or cable programme;
- (ii) for the person's private profit;
- (iii) at any time when there is copyright in the work; and
- 5 (iv) knowing, or having reason to believe, that copyright in the work is thereby infringed.

(2) A person commits an offence if —

(a) the person—

- 10 (i) causes a performance to be seen or heard (or both) live in public; or
- (ii) causes a recording of a performance to be heard in public; and

(b) the person does so —

- 15 (i) for the person's private profit;
- (ii) at any time during the protection period of a performance; and
- (iii) knowing, or having reason to believe, that the person thereby made an infringing use of the performance.

Advertisement for supply of infringing copies of works [139]

20 **424.**—(1) Subject to subsection (2), a person commits an offence if —

- (a) the person publishes, or causes to be published, an advertisement in Singapore; and
- 25 (b) the advertisement is for the supply in Singapore (whether from within or outside Singapore) of an infringing copy of a work.

(2) It is a defence to subsection (1) that the person proves, on a balance of probabilities, that the person —

(a) acted in good faith; and

(b) had no reasonable grounds to believe that the advertisement would or could lead to an infringement of the copyright in the work.

5 (3) For the purposes of subsection (1), if a copy of a work is created when a communication of the work is received and recorded, the communication of the work is taken to be the supply of the work at the place where the copy was created.

Punishment [new]

10 **425.**—(1) A person convicted of an offence under section 421 shall be liable—

(a) in the case of an individual —

(i) to a fine not exceeding the higher of the following:

(A) \$20,000;

15 (B) \$2,000 for each article in respect of which the offence is committed;

(ii) to imprisonment for a term not exceeding 2 years; or

(iii) to both; and

(b) in any other case — to a fine not exceeding the higher of the following:

20 (i) \$40,000;

(ii) \$4,000 for each article in respect of which the offence is committed.

(2) A person convicted of an offence under section 422, 423 or 424 shall be liable—

25 (a) in the case of an individual — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both; and

(b) in any other case — to a fine not exceeding \$40,000.

*Division 3 — Other provisions***Presumption where person possesses 5 or more infringing copies
[136(7); 254A(7)]**

5 **426.**—(1) This section applies to all offences in this Division except those under section 418 or 422.

(2) Unless the contrary is proved, a person who possesses 5 or more infringing copies of a work or performance is presumed —

- (a) to be in possession of those copies other than for private and domestic use; or
- 10 (b) to be in possession of those copies for the purpose of sale.

Proof of existence of copyright and protection of performance, etc., by affidavit [137]

427.—(1) This section applies to proceedings for an offence under this Division.

15 (2) An affidavit may be made stating that —

- (a) at a specified time, copyright exists in a work or a performance is a protected performance;
- (b) the deponent is the rights owner or is making the affidavit on behalf of the rights owner;
- 20 (c) a copy of the work or a recording of the performance annexed to the affidavit is a true copy or recording.

(3) Subject to subsections (4) and (5), the affidavit is admissible and is prima facie proof of the matters mentioned in subsection (2).

25 (4) Subsection (3) does not apply if it is proved that the deponent is neither the rights owner nor acting on behalf of the rights owner.

(5) If the accused person desires in good faith to cross-examine the deponent on the matters in the affidavit, subsection (3) does not apply unless —

- (a) the deponent appears as a witness for cross-examination; or
- 30 (b) the court allows the affidavit to be used despite the deponent's failure to so appear.

PART 9

REGULATION OF COLLECTIVE MANAGEMENT
ORGANISATIONS

[Placeholder]

5 **428.** [Placeholder]

PART 10

COPYRIGHT TRIBUNALS

[Placeholder]

429. [Placeholder]

10

PART 11

MISCELLANEOUS

Groundless threats of legal proceedings [200]

15 **430.**—(1) This section applies where a person (X) threatens another person (Y) with any proceedings in respect of an infringement of copyright.

(2) Y or any aggrieved person may bring an action against X.

(3) In an action under subsection (2), the claimant may —

(a) obtain a declaration to the effect that the threats are unjustifiable;

20 (b) obtain an injunction against the continuance of the threats; and

(c) recover such damages (if any) as the claimant has sustained.

25 (4) Subsection (3) does not apply if X proves that the acts in respect of which X has threatened proceedings constitute (or would constitute if done) an infringement of copyright.

(5) To avoid doubt, X may, in an action under subsection (2), make a counterclaim for an infringement of copyright.

(6) This section does not make an advocate and solicitor liable for anything done by him or her in his or her professional capacity on behalf of a client.

(7) For the purposes of this section —

- 5 (a) it does not matter whether the threats are made by circulars, advertisements or otherwise;
- (b) it does not matter whether X is or is not the owner or an exclusive licensee of the copyright concerned; and
- 10 (c) the mere notification of the existence of a copyright does not constitute a threat of proceedings.

Offences by bodies corporate, etc. [201B]

431.—(1) Where an offence under this Act committed by a body corporate is proved —

- 15 (a) to have been committed with the consent or connivance of an officer of the body corporate; or
- (b) to be attributable to any neglect on his or her part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

- 20 (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

- 25 (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on his or her part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

- 30 (4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

“body corporate” includes a limited liability partnership which has the same meaning as in section 2(1) of the Limited Liability Partnerships Act 2005;

“officer” —

(a) in relation to a body corporate — means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership) — means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of such a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(6) The Minister may make regulations to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to a body corporate or an unincorporated association formed or recognised under the law of a territory outside Singapore.

Jurisdiction of courts [140]

432. Despite the Criminal Procedure Code 2010, a District Court or a Magistrate's Court has jurisdiction to try any offence under this Act and has power to impose the full punishment for any such offence.

5 **Application of Government Proceedings Act 1956 [197(8)]**

433. To avoid doubt, it is declared that section 12 of the Government Proceedings Act 1956 (which relates to infringements of industrial property by employees or agents of the Government) applies to copyright under this Act.

10 **Immunity of officers and employees of Government and Authority [201A]**

434. No liability shall lie against any officer or employee of the Government or of IPOS for anything done or omitted to be done —

- (a) in good faith and with reasonable care; and
- 15 (b) in the exercise or purported exercise of any power, duty or function under this Act.

Regulations [193DE; 202]

435.—(1) The Minister may make regulations —

- 20 (a) to prescribe anything that is required or allowed to be prescribed by this Act; and
 - (b) generally for the purposes of this Act.
- (2) Without limiting subsection (1), regulations may provide for —
- 25 (a) the keeping and retention of records and declarations in relation to copies of works made by libraries, archives or institutions;
 - (b) the deposit of such records and declarations with persons appointed by the Minister; and
 - (c) the fees payable in respect of any application or matter under this Act.

Repeal

436. The Copyright Act 1987 is repealed.

PART 12

TRANSITIONAL

5 **[Placeholder]**

437. [Placeholder]

EXPLANATORY STATEMENT

This Bill seeks to repeal and re-enact the Copyright Act 1987.

EXPENDITURE OF PUBLIC MONEY

[Placeholder]

Note 1: SZX/Copyright Bill (v04) 210205