



THE COPYRIGHT (BORDER PROTECTION) REGULATIONS 1994

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 19th day of December 1994

Present:

THE HON. DOUG KIDD PRESIDING IN COUNCIL

PURSUANT to section 234 of the Copyright Act 1994, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Copyright (Border Protection) Regulations 1994.

(2) These regulations shall come into force on the 1st day of January 1995.

2. Interpretation—In these regulations, “the Act” means the Copyright Act 1994.

3. Form of notice under section 136 (1)—(1) Every notice under section 136 (1) of the Act shall be in the form set out in the Schedule to these regulations.

(2) A separate notice shall be given in respect of each work.

4. Evidence in support of claim—(1) Every person giving a notice under section 136 (1) of the Act shall furnish to the Comptroller evidence

in support of the claim that an item is a work in which the person owns the copyright.

(2) The Comptroller may direct that such evidence be furnished at the time the notice is given or at any subsequent time.

5. Notice of transmission and other matters—Every person giving a notice under section 136 (1) of the Act must inform the Comptroller, in writing, of—

- (a) Any transmission of the copyright in the work to which the notice relates;
- (b) Any change in the particulars contained in the notice or in any evidence given to the Comptroller in support of the claim that an item is a work in which the person owns the copyright.

6. Security and indemnity—(1) Every person giving a notice under section 136 (1) of the Act shall give security or an indemnity or both security and an indemnity to such persons, of such amount, and on such terms and conditions as may be determined by the Comptroller.

(2) The Comptroller may direct that security or an indemnity or both security and an indemnity be given at the time the notice is given or at any subsequent time.

(3) Every person to whom an item is to be or has been released from detention under section 140 (1) of the Act shall give security or an indemnity or both security and an indemnity to such persons, of such amount, and on such terms and conditions as may be determined by the Comptroller.

7. Agents—(1) Notice under section 136 (1) of the Act may be given to the Comptroller by a duly appointed agent of the owner of the copyright in the work.

(2) Where the Comptroller or a Collector is required under Part VII of the Act to advise, or cause a notice to be served on, any person who has given a notice under section 136 (1) of the Act, that advice or notice may be given to that person's duly appointed agent.

Reg. 3

SCHEDULE

FORM OF NOTICE UNDER SECTION 136 (1)
OF COPYRIGHT ACT 1994

The Copyright Act 1994

NOTICE REQUESTING DETENTION OF PIRATED COPIES

To: The Comptroller of Customs

(a), of (b), claims that (c) is a work in which (a) owns the copyright.

The title of the work is: (d)

In relation to a literary, dramatic, musical, or artistic work that is not computer-generated, the full name(s) of the author(s) is (are): (e)

In relation to a published edition, the full name of the publisher is:

In relation to a literary, dramatic, musical, or artistic work that is computer-generated, or a sound recording, or a film, the full name(s) of the author(s) is (are): (f)

In relation to a literary, dramatic, musical, or artistic work that is not computer-generated, the author(s) is (are) still living. (g)

In relation to a literary, dramatic, musical, or artistic work that is not computer-generated, the year(s) of the death(s) of the author(s) was (were): (h)

In relation to a literary, dramatic, musical, or artistic work that is computer-generated, the year in which the work was made was:

In relation to a sound recording or a film, the year in which the work was made and the year in which the work was made available to the public by an authorised act were:

The country and year of first publication of the work were: (i)

The status of the author(s) or publisher at the time of first publication was: (j)

It is hereby requested that the Comptroller of Customs detain any pirated copies of (c) that are in, or at any time come into, the control of the Customs.

This notice shall be in force for the period (k)

The business/residential address, postal address, and facsimile number of (l) for the service of notices are:

Business/residential address

Postal address

Facsimile No.

Dated this day of 19....

(m)

- (a) State the full name of the owner of the copyright.
- (b) State the address of the owner of the copyright.
- (c) Describe the work in which copyright is claimed.
- (d) State the title under which the work has been published.

SCHEDULE—*continued*

- (e) If the work is of unknown authorship, insert words to that effect.
- (f) If the work is of unknown authorship, insert words to that effect.
If the author is a company, insert the name of the company, and the division within the company, that produced the work.
- (g) Delete if the work is of unknown authorship or if no author is still living.
- (h) Delete if the author is still living or, if the work is a work of joint authorship, if one of the authors is still living. If neither is the case, state the year of death of the author or the last surviving author.
- (i) If there was simultaneous publication in more than one country, state all countries.
- (j) State the citizenship and domicile or residence of the author of the work or the publisher of the edition or, if the author or publisher is a company, the name of the country where the company is incorporated.
- (k) Insert a period that is not longer than 5 years from the date of the notice or, if the copyright in the work will expire within 5 years from the date of the notice, not longer than the period for which the copyright will last.
- (l) Insert name of the owner of the copyright or authorised agent.
- (m) Signature.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 January 1995, relate to the detention by Customs, under the Copyright Act 1994, of pirated copies of copyright works.

Regulation 3 prescribes the form of notice to be given under section 136 (1) of the Copyright Act 1994, by a person who owns the copyright in a literary, dramatic, musical, or artistic work or the typographical arrangement of a published edition or a sound recording or a film, requesting Customs to detain pirated copies of the work.

Regulation 4 relates to evidence that must be given by a person giving a notice under section 136 (1) of the Act in support of a claim to own copyright in a work.

Regulation 5 requires notice to be given to the Comptroller of Customs of any transmission of the copyright in the work to which a notice relates, and of certain other matters.

Regulation 6 requires persons giving a notice under section 136 (1), and persons to whom any item is to be, or has been, released from detention under section 140 (1) of the Act, to give security and an indemnity.

Regulation 7 provides that a notice under section 136 (1) of the Act may be given to the Comptroller by an agent of the copyright owner, and that the Comptroller or a Collector may give any advice or notice under Part VII of the Act to such an agent.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 21 December 1994.

These regulations are administered in the Department of Justice.