



Copyright (International Protection) Amendment Regulations 2004 (No. 1)¹

Statutory Rules 2004 No. 257²

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Copyright Act 1968*.

Dated 19 August 2004

P. M. JEFFERY
Governor-General

By His Excellency's Command

PHILIP RUDDOCK
Attorney-General

1 Name of Regulations

These Regulations are the *Copyright (International Protection) Amendment Regulations 2004 (No. 1)*.

2 Commencement

These Regulations commence on the commencement of Part 3 of Schedule 9 to the *US Free Trade Agreement Implementation Act 2004*.

3 Amendment of *Copyright (International Protection) Regulations 1969*

Schedule 1 amends the *Copyright (International Protection) Regulations 1969*.

Schedule 1 Amendments (regulation 3)

[1] Subregulation 3 (1), after definition of *Universal Copyright Convention*

insert

WCT country means a foreign country that is a party to the WIPO Copyright Treaty concluded at Geneva on 20 December 1996.

Note For information as to which countries are parties to the WIPO Copyright Treaty, see, for example, the World Intellectual Property Organization website at www.wipo.int.

WPPT country means a foreign country that is a party to the WIPO Performances and Phonograms Treaty concluded at Geneva on 20 December 1996.

Note For information as to which countries are parties to the WIPO Performances and Phonograms Treaty, see, for example, the World Intellectual Property Organization website at www.wipo.int.

[2] Regulation 4, heading

substitute

4 Protection — Berne Convention countries, UCC countries, Rome Convention countries, WCT countries, WPPT countries and WTO countries (Act s 184)

[3] Subregulation 4 (1)

omit

a UCC country

insert

a Rome Convention country, a UCC country, a WCT country, a WPPT country

[4] After subregulation 4 (1)*insert**Live performance incorporated in a sound recording and having connection with a foreign country*

(1A) For subregulation (1), and subject to subregulation (1B), a reference to a sound recording made or first published in a WPPT country is taken to include a reference to a sound recording (wherever made), incorporating a live performance given in a WPPT country.

(1B) Subregulation (1A) applies only in relation to a person who is:

- (a) a maker of the sound recording; and
- (b) a performer in the performance.

[5] Subregulation 4 (2)*omit*

a UCC country

insert

a UCC country, a WCT country

[6] Subregulations 4 (3), (4) and (5)*omit*

a UCC country

insert

a Rome Convention country, a UCC country, a WCT country, a WPPT country

[7] Subregulation 5 (2), definition of *relevant country**omit*

a UCC country

insert

a UCC country, a WCT country

[8] Regulation 8, heading*substitute***8 Protection — Rome Convention countries, WPPT countries and WTO countries (Act s 248U)**

[9] **Subregulation 8 (1), definition of *applicable provision*, paragraph (a)**

substitute

- (a) if the participating country is a WTO country or a WPPT country but not a Rome Convention country — a provision of Part XIA of the Act relating to sound recordings, or communication to the public of live performances; and

[10] **Subregulation 8 (1), definition of *participating country*, paragraph (b)**

substitute

- (b) a WPPT country; or
(c) a WTO country.

[11] **After subregulation 8 (2)**

insert

Sound recording made in a foreign country of a performance

- (2A) An applicable provision applies in relation to a sound recording, made in a participating country (a ***foreign sound recording***), of a performance:
- (a) in the same way as the provision applies, under the Act, in relation to a sound recording of a performance given in Australia; and
(b) as if the foreign sound recording were made in Australia.

Broadcast made in a foreign country of a performance

- (2B) An applicable provision applies in relation to a broadcast, made by a relevant broadcaster from a place in a participating country (a ***foreign broadcast***), of a performance:
- (a) in the same way as the provision applies, under the Act, in relation to a broadcast of a performance given in Australia; and
(b) as if the foreign broadcast were made in Australia.

Sound recording made by a citizen, national or resident of a foreign country of a performance

- (2C) An applicable provision applies in relation to a sound recording, made by a person who is a citizen, national or resident of a participating country (a ***foreign person***), of a performance:
- (a) in the same way as the provision applies, under the Act, in relation to a sound recording of a performance given in Australia; and
(b) as if the foreign person were an Australian citizen or resident.

[12] **Subregulation 8 (5)**

omit

[13] **Subregulation 8 (7)**

substitute

- (7) Subregulation (6) does not apply if:
- (a) the country is also a WTO country or a WPPT country; and
 - (b) the rights arising under this regulation are in relation to a provision of Part XIA of the Act relating to sound recordings, or communication to the public of live performances.

[14] Paragraphs 9 (1) (a) and (b)

omit

a Berne Convention country

insert

a Berne Convention country, a WCT country

[15] Subregulation 10 (1)

omit

a Berne Convention country

insert

a Berne Convention country, a WCT country

[16] Subregulation 13 (3), definition of *convention country*, paragraph (d)

substitute

- (d) a WCT country; or
- (e) a WPPT country; or
- (f) a WTO country.

Notes

1. These Regulations amend Statutory Rules 1969 No. 60, as amended by 1969 No. 65; 1974 No. 137; 1980 No. 276; 1981 No. 74; 1983 No. 127; 1984 No. 43; 1990 Nos. 356 and 357; 1991 Nos. 451 and 452; 1992 No. 124; 1993 No. 214; 1994 No. 114; 1995 Nos. 67 and 436; 1998 No. 360; 2001 No. 29; 2003 No. 337.
 2. Notified in the *Commonwealth of Australia Gazette* on 26 August 2004.
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