



Copyright Tribunal (Procedure) Regulations 1969

Statutory Rules 1969 No. 59 as amended

made under the

Copyright Act 1968

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Regulation 1

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Part I Preliminary**1 Name of Regulations** [see Note 1]

These Regulations are the *Copyright Tribunal (Procedure) Regulations 1969*.

2 Commencement [see Note 1]

These Regulations shall come into operation on the date fixed by Proclamation under section 2 of the Act.

3 Parts

These Regulations are divided into Parts, as follows:

Part I — Preliminary (Regulations 1-4)

Part II — General Provisions (Regulations 5-15)

Part IV — Applications and References to the Tribunal (Regulations 17-35)

Part V — Ancillary Matters (Regulations 36-43)

Part VI — Miscellaneous (Regulations 44-48).

4 Interpretation

- (1) In these Regulations, unless the contrary intention appears:

address for service, in relation to a person, means an address in Australia at which documents may be served on the person.

newspaper includes the *Gazette*.

person includes an organization within the meaning of Part VI of the Act.

proceeding means a proceeding before the Tribunal.

sealed means sealed with the seal of the Tribunal.

the Act means the *Copyright Act 1968*.

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the relevant file number, in relation to a proceeding, means the file number caused by the Secretary to be allotted to the proceeding in pursuance of regulation 8 of these Regulations.

the Secretary means the Secretary to the Tribunal.

- (2) Where provision is made by the Act or these Regulations specifying the persons who are to be the parties to a proceeding, those persons shall be deemed, for the purposes of these Regulations, to be parties to any ancillary application made under these Regulations in connexion with that proceeding.
- (3) Without limiting the application in relation to these Regulations of paragraph (a) of section 46 of the *Acts Interpretation Act 1901-1966*, an expression used in any of these Regulations that:
 - (a) is also used in a section of the Act for the purposes of which, or of a provision of which, that regulation is made; and
 - (b) has, in that section, a defined or other specified meaning; has the same meaning in that regulation.

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6 Office or offices of Secretary

- (1) The Attorney-General shall notify in the *Gazette*:
 - (a) the address of the office of the Secretary or, if there is more than one such office, the address of each of those offices; and
 - (b) any change in that address or in any of those addresses.
- (2) An office of the Secretary shall be open for business on every day, other than a Saturday or a Sunday or a day that is observed as a holiday in the Public Service of the Commonwealth by virtue of section 76 of the *Public Service Act 1922-1968* in the place where the office is situated, at such times as the President directs.

7 Filing of documents

- (1) Subject to this regulation, filing of a document with the Secretary shall be effected by lodging the document at an office of the Secretary at a time when that office is open for business, or by sending the document by post addressed to the Secretary at an office of the Secretary, but the document shall be deemed not to be filed until it is accepted for filing by the Secretary.
- (2) The Secretary may refuse to accept a document for filing if the document does not comply with the provisions of these Regulations applicable in relation to the document and shall refuse to accept a document for filing if the prescribed fee has not been paid.
- (3) If the Secretary refuses to accept a document for filing, he shall serve notice in writing of the refusal on the person by whom the document was lodged or sent and shall state in the notice the reason for the refusal.
- (4) The Secretary shall cause the date on which a document is filed to be written on the document and on any sealed copy of the document.

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- (5) The Secretary may decide on the number of copies of each document that must be with the document when it is filed with the Secretary.
- (6) A decision by the Secretary under subregulation (5) may be in relation to:
 - (a) all documents; or
 - (b) a particular document; or
 - (c) a document included in a class of documents.
- (7) If the Secretary has made a decision under subregulation (5) the number of copies decided on in relation to a document must be with that document when it is filed with the Secretary.

8 File numbers of proceedings

- (1) The Secretary shall cause a file number to be allotted to each proceeding.
- (2) The one file number may be allotted to all proceedings that, in the opinion of the Secretary, are related to each other.

9 Title of proceedings

A document filed with the Secretary, or issued out of an office of the Secretary, in relation to a proceeding shall be intituled in accordance with Form 1 in Schedule 1 to these Regulations.

10 Sealing of documents

Where:

- (a) a person is required by or under these Regulations to serve on another person a sealed copy of a document filed with the Secretary; and
- (b) a copy of the document is lodged by or on behalf of that person with the Secretary;

the Secretary shall cause the document to be sealed and returned to the person by whom it was lodged.

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11 Address for service

- (1) A person who files with the Secretary a document instituting, or relating to, a proceeding shall specify in the document an address for service.
- (2) The last preceding subregulation does not apply in relation to a document filed in connexion with a proceeding if the person filing the document has previously filed a document with the Secretary in connexion with that proceeding specifying such an address.
- (3) A person who has, in connexion with a proceeding, filed with the Secretary a document specifying an address for service may at any time file with the Secretary a notice, in writing addressed to the Secretary and signed by or on behalf of the person, specifying a new address for service.
- (4) A person filing a notice in accordance with the last preceding subregulation shall cause a copy of the notice to be served on every party to the proceeding within seven days after the notice is filed.
- (5) A reference in these Regulations to a document specifying an address for service in relation to a person shall, in relation to a person who has filed a notice in accordance with subregulation (3) of this regulation, be read as a reference to the notice or, if the person has filed more than one such notice, be read as a reference to the later or latest of those notices.

12 Service of documents

- (1) A document that is required or permitted by or under these Regulations to be served on a person in connexion with a proceeding may be served on the person:
 - (a) where the person has filed a document with the Secretary specifying an address for service — by delivering the document to the person personally or by leaving the document at, or by sending the document by post addressed to the person at, that address; or
 - (b) where the person has not filed such a document:

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- (i) if the person is a corporation — by delivering the document personally to the manager or secretary of the corporation, or, if the corporation has a registered office under a law of a State or Territory of the Commonwealth, by leaving it at that office or by sending it by post addressed to the corporation at that office or, if the corporation does not have such a registered office, by sending it by post addressed to the corporation at its principal place of business in Australia;
 - (ii) if the person is an organization other than a corporation — by delivering the document personally to the manager, secretary or other similar officer of the organization or by sending it by post addressed to the organization at its principal place of business in Australia; or
 - (iii) in any other case — by delivering the document personally to the person or by sending it by post addressed to the person at the address of the place of living or business of the person last known to the person serving the document.
- (2) The Tribunal may make an order directing that service of a document that is required or permitted by or under these Regulations to be served be effected in a manner different from the manner provided by the last preceding subregulation or that service of the document be dispensed with.
- (3) Proof of the service of any document may be given by means of a statutory declaration.

13 Signing of documents

Where, in connexion with a proceeding, a person signs a document on behalf of another person, the person signing the document shall state in the document that he is signing the document on behalf of the other person.

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14 Recording of orders of Tribunal

- (1) The Secretary shall cause each order of the Tribunal and the date on which it was made to be recorded in a document signed by him.
- (2) The Secretary shall cause the original of the document referred to in the last preceding subregulation to be filed in the records of the Tribunal.

15 Notification of orders of Tribunal and of reasons

- (1) The Tribunal shall, when making an order, state in writing its reasons for making the order.
- (2) The Secretary shall cause a copy of the document recording the order and of the reasons of the Tribunal to be served on every party to the application or reference in respect of which the order was made and shall also cause a copy of the document recording the order and of the reasons to be available at each of his offices for public inspection when that office is open for business.
- (3) In the last two preceding subregulations, “order” does not include an interim order or an order that is made in respect of an application that is ancillary to another proceeding.
- (4) The President may, if he thinks fit, direct the Secretary to cause particulars of any order of the Tribunal to be published in such newspaper or newspapers circulating in Australia as the President determines.
- (5) Subregulations (2) and (4) of this regulation do not apply in relation to an order the operation of which is suspended pending a reference of a question of law to the Federal Court of Australia.

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**Part IV Applications and references
to the Tribunal****17 General provisions relating to applications and
references to Tribunal**

- (1) An application or reference to the Tribunal shall:
 - (a) be in writing;
 - (b) state the name of the person making the application or reference;
 - (c) state the general nature of the application or reference and specify the provision of the Act or of these Regulations under which the application or reference is made;
 - (d) subject to the next succeeding subregulation, include such other matters as are required by these Regulations to be included in an application or reference made under that provision;
 - (e) be signed by or on behalf of the person making the application or reference; and
 - (f) be filed with the Secretary.
- (2) A person desiring to make an application or reference to the Tribunal may, with the leave of the President, omit from the application or reference such of the particulars required by these Regulations to be included in the application or reference as the President specifies but, if the President, when so granting leave, directs that other particulars specified by him are to be included in the application or reference in lieu of the omitted particulars, the person shall include those other particulars in the application or reference.
- (3) Subject to these Regulations, a person making an application or reference to the Tribunal shall cause notice of the making of the application or reference, together with a sealed copy of the application or reference, to be served, within seven days after the application or reference is filed with the Secretary, on every other person who, by virtue of the Act or of these Regulations,

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is a party to the application or reference other than a person who became a party after the application or reference was filed.

- (4) A notice of the making of an application or reference shall:
 - (a) be in writing;
 - (b) be addressed to the person on whom it is served;
 - (c) inform the person on whom it is served that the application or reference to which the notice relates has been made to the Tribunal and that that person is, by virtue of the Act or these Regulations, as the case may be, a party to the application or reference; and
 - (d) be signed by or on behalf of the person making the application or reference.
- (5) The President may, and shall if so requested by a party to the application or reference, fix a time and place for a preliminary hearing of the application or reference (other than an application to which regulation 34 or regulation 35 of these Regulations applies or an application or reference in respect of which the Tribunal decides not to have a hearing) for the purpose of dealing with such matters connected with the application or reference as the President directs, and the Secretary shall cause notice of the time and place so fixed to be served on the parties to the application or reference and on the persons (if any) who have applied to the Tribunal to be made parties to the application or reference.
- (6) A request for the fixing of a time and place for a preliminary hearing shall:
 - (a) be in writing addressed to the Secretary;
 - (b) specify the date on which the application or reference was filed with the Secretary and the relevant file number;
 - (c) state the name of the party making the request;
 - (d) be signed by or on behalf of that party; and
 - (e) be filed with the Secretary.
- (7) The President shall fix a time and place for the hearing of the application or reference (other than an application to which regulation 34 of these Regulations applies or an application or reference in respect of which the Tribunal decides not to have a hearing), and the Secretary shall cause notice of the time and

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place so fixed to be served on the parties to the application or reference and on the persons (if any) who have applied to the Tribunal to be made parties to the application or reference and whose applications to be made parties have not been previously determined.

- (8) An application to which regulation 34 of these Regulations applies shall be dealt with at the preliminary hearing (if any) or the hearing of the proceeding to which it relates.

18 Advertising of applications and references

- (1) Where an application (other than an application in relation to which this regulation does not apply) or a reference is made to the Tribunal, the person making the application or reference shall, subject to this regulation, cause notice of the making of the application or reference to be advertised in each State by being published, within ten days after the filing the application or reference with the Secretary, in a newspaper circulating in that State.
- (2) The President may direct that notice of the making of an application or reference specified in the direction need not be advertised, or need not be advertised in a State so specified, or that the notice be advertised in a manner other than that specified in the last preceding subregulation.
- (3) The notice shall:
- (a) specify the date on which the application or reference was made and the relevant file number;
 - (b) state the name, and the address for service, of the person by whom the application or reference is made; and
 - (c) state the general nature of the application or reference and specify the provision of the Act or of these Regulations under which the application or reference is made.
- (4) This regulation does not apply to:
- (a) applications under subsection 47 (3), paragraph 59 (3) (b), subsections 70 (3) and 107 (3), and paragraph 108 (1) (a) of the Act; and

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- (b) applications mentioned in sections 149A, 153A, 153B, 153BA, 153BB, 153C, 153D, 153DA, 153M and 153N of the Act; and
- (c) applications to which regulation 34 or 35 applies.

19 Matters to be included in application under subsection 47 (3)

An application to the Tribunal under subsection (3) of section 47 of the Act:

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall:
 - (i) identify the work, or the adaptation of a work, to which the application relates;
 - (ii) identify the sound recording or cinematograph film to which the application relates;
 - (iii) state whether the applicant is the owner of the copyright in the work or the maker of the recording or film;
 - (iv) if the applicant is the owner of the copyright — state the name of the maker of the recording or film; and
 - (v) if the applicant is the maker of the recording or film — state the name of the owner of the copyright; and
- (b) shall request the Tribunal to determine the amount that is equitable remuneration to the owner of the copyright for the making of the recording or film.

19A Matters to be included in application under subsection 47A (8) of the Act

An application to the Tribunal under subsection 47A (8) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) identify the work, or the adaptation of the work, to which the application relates; and

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- (c) state whether the applicant is the owner of the copyright in the work or the holder of a print-handicapped radio licence; and
- (d) if the applicant is the owner of the copyright — state the name of the licence holder; and
- (e) if the applicant is the licence holder — state the name of the owner of the copyright; and
- (f) ask the Tribunal to determine the amount that is equitable remuneration to the owner of the copyright for the making of the sound broadcast.

20 Matters to be included in application under paragraph 59 (3) (b)

An application to the Tribunal under paragraph (b) of subsection (3) of section 59 of the Act:

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall:
 - (i) identify the musical work and the literary or dramatic work to which the application relates;
 - (ii) identify the record to which the application relates;
 - (iii) state whether the applicant is the owner of the copyright in the musical work or the owner of the copyright in the literary or dramatic work;
 - (iv) if the applicant is the owner of the copyright in the musical work — state the name of the owner of the copyright in the literary or dramatic work; and
 - (v) if the applicant is the owner of the copyright in the literary or dramatic work — state the name of the owner of the copyright in the musical work; and
- (b) shall request the Tribunal to determine the manner in which the royalty payable by the maker of the record in respect of the musical work and the literary or dramatic work shall be apportioned between the owners of the copyrights in those works.

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21 Matters to be included in application under subsection 70 (3)

An application to the Tribunal under subsection (3) of section 70 of the Act:

- (a) shall set out the events giving rise to the application and, in particular, shall:
 - (i) identify the artistic work to which the application relates;
 - (ii) identify the cinematograph film to which the application relates;
 - (iii) state whether the applicant is the owner of the copyright in the work or the maker of the film;
 - (iv) if the applicant is the owner of the copyright — state the name of the maker of the film; and
 - (v) if the applicant is the maker of the film — state the name of the owner of the copyright; and
- (b) shall request the Tribunal to determine the amount that is equitable remuneration to the owner of the copyright for the making of the film.

22 Matters to be included in application under subsection 107 (3)

An application to the Tribunal under subsection (3) of section 107 of the Act:

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall:
 - (i) identify the sound recording to which the application relates;
 - (ii) identify the record to which the application relates;
 - (iii) state whether the applicant is the owner of the copyright in the recording or the maker of the record;
 - (iv) if the applicant is the owner of the copyright — state the name of the maker of the record; and
 - (v) if the applicant is the maker of the record — state the name of the owner of the copyright; and

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- (b) shall request the Tribunal to determine the amount that is equitable remuneration to the owner of the copyright for the making of the record.

23 Matters to be included in application under paragraph 108 (1) (a)

An application to the Tribunal under paragraph (a) of subsection (1) of section 108 of the Act:

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall:
 - (i) identify the sound recording to which the application relates;
 - (ii) state whether the applicant is the owner of the copyright in the recording or the person causing the recording to be heard in public;
 - (iii) if the applicant is the owner of the copyright — state the name of the person causing the recording to be heard in public; and
 - (iv) if the applicant is the person causing the recording to be heard in public — state the name of the owner of the copyright; and
- (b) shall request the Tribunal to determine the amount that is equitable remuneration to the owner of the copyright for the causing of the recording to be heard in public.

23A Matters to be included in application under subsection 135H (1) of the Act

An application to the Tribunal under subsection 135H (1) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or the collecting society; and
- (c) if the applicant is an administering body:
 - (i) state the institutions it administers; and
 - (ii) state the classes of students of institutions it administers; and

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- (d) if the applicant is the collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135P of the Act; and
 - (ii) state the name of the administering body; and
- (e) identify the classes of works, sound recordings or cinematograph films included in the broadcasts; and
- (f) ask the Tribunal to determine an amount that is equitable remuneration for:
 - (i) copies of broadcasts; and
 - (ii) communications of such copies.

Note In this regulation, *administering body* and *collecting society* have the same meaning as in Part VA of the Act.

23B Matters to be included in application under subsection 135J (1) of the Act

An application to the Tribunal under subsection 135J (1) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or the collecting society; and
- (c) if the applicant is an administering body:
 - (i) state the institutions it administers; and
 - (ii) state the classes of students of institutions it administers; and
- (d) if the applicant is the collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135P of the Act; and
 - (ii) state the name of the administering body; and
- (e) give the following particulars based on assessment by use of a sampling system under subsection 135J (3) of the Act:
 - (i) the extent to which copies of broadcasts are made by, or on behalf of, the administering body in a particular period;

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- (ii) the extent to which communications of such copies are made by, or on behalf of, the administering body in a particular period;
- (iii) other matters (if any); and
- (f) ask the Tribunal to determine the annual amount per student of the institution concerned that is equitable remuneration for:
 - (i) copies of broadcasts; and
 - (ii) communications of such copies.

Note In this regulation, *administering body* and *collecting society* have the same meaning as in Part VA of the Act.

23C Matters to be included in application under subsection 135J (3) of the Act

An application to the Tribunal under subsection 135J (3) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or the collecting society; and
- (c) if the applicant is an administering body — state the name of the collecting society; and
- (d) if the applicant is the collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135P of the Act; and
 - (ii) state the name of the administering body; and
- (e) give the following particulars for assessment by use of a sampling system:
 - (i) the extent of copying of broadcasts;
 - (ii) the extent to which copies of broadcasts are communicated;
 - (iii) other matters (if any); and
- (f) ask the Tribunal to determine a sampling system to be used to assess:
 - (i) the extent to which copies of broadcasts are made by, or on behalf of, the administering body in a particular period; and

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- (ii) the extent to which communications of such copies are made by, or on behalf of, the administering body in a particular period; and
- (iii) any other matters that are necessary or convenient to be assessed by use of a sampling system.

Note In this regulation, *administering body* and *collecting society* have the same meaning as in Part VA of the Act.

23CA Matters to be included in application under subsection 135JA (1) of the Act

An application to the Tribunal under subsection 135JA (1) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or the collecting society; and
- (c) if the applicant is an administering body:
 - (i) state the institutions it administers; and
 - (ii) state the classes of students of institutions it administers; and
- (d) if the applicant is the collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135P of the Act; and
 - (ii) state the name of the administering body; and
- (e) give the following particulars based on assessment by use of an agreed system under subsection 135JA (3) of the Act:
 - (i) the extent to which copies of broadcasts are made by, or on behalf of, the administering body in a particular period;
 - (ii) the extent to which communications of such copies are made by, or on behalf of, the administering body in a particular period;
 - (iii) other matters (if any); and

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(f) ask the Tribunal to determine an amount (whether an annual amount or otherwise) that is equitable remuneration for:

- (i) copies of broadcasts; and
- (ii) communications of such copies.

Note In this regulation, *administering body* and *collecting society* have the same meaning as in Part VA of the Act.

23CB Matters to be included in application under subsection 135JA (3) of the Act

An application to the Tribunal under subsection 135JA (3) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or the collecting society; and
- (c) if the applicant is an administering body — state the name of the collecting society; and
- (d) if the applicant is the collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135P of the Act; and
 - (ii) state the name of the administering body; and
- (e) give particulars of:
 - (i) the matters and processes that it is proposed should constitute an agreed system; and
 - (ii) any other matters that it is proposed should be necessary or convenient to be assessed or taken into account for the purposes of an agreed system; and
- (f) ask the Tribunal to determine:
 - (i) the agreed system to be used, including the matters and processes constituting the agreed system; and
 - (ii) any other matters that are necessary or convenient to be assessed or taken into account for the purposes of an agreed system that adequately accounts for:
 - (A) copies of broadcasts made by, or on behalf of, the administering body while the agreed notice is in force; and

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- (B) communications of such copies made by, or on behalf of, the administering body while the agreed notice is in force.

Note In this regulation, *administering body*, *agreed notice* and *collecting society* have the same meaning as in Part VA of the Act.

23D Matters to be included in application under subsection 135ZV (1) of the Act

An application to the Tribunal under subsection 135ZV (1) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or a collecting society; and
- (c) if the applicant is an administering body:
 - (i) state the name of the relevant collecting society; and
 - (ii) state the institutions administered by the administering body; and
 - (iii) state the classes of students of institutions it administers; and
- (d) if the applicant is a collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135ZZB of the Act including (if applicable) details of the classes of relevant copyright owners specified in the notice; and
 - (ii) state the name of the administering body; and
- (e) ask the Tribunal to determine the amount per licensed copy that is equitable remuneration for the making of the licensed copies.

Note In this regulation, *administering body*, *collecting society*, *licensed copy* and *relevant copyright owner* have the same meaning as in Part VB of the Act.

Regulation 23E

23E Matters to be included in application under subsection 135ZW (1) of the Act

An application to the Tribunal under subsection 135ZW (1) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or a collecting society; and
- (c) if the applicant is an administering body:
 - (i) state the name of the relevant collecting society; and
 - (ii) state the institutions administered by the administering body; and
 - (iii) state the classes of students of institutions it administers; and
- (d) give particulars of:
 - (i) the number of licensed copies made by, or on behalf of, the administering body in a particular period; and
 - (ii) other matters (if any);assessed by use of a sampling system under subsection 135ZW (3) of the Act; and
- (e) if the applicant is a collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135ZZB of the Act including (if applicable) details of the classes of relevant copyright owners specified in the notice; and
 - (ii) state the name of the administering body; and
- (f) ask the Tribunal to determine the annual amount per student of the institution concerned that is equitable remuneration for the making of licensed copies.

Note In this regulation, **administering body**, **collecting society**, **licensed copy** and **relevant copyright owner** have the same meaning as in Part VB of the Act.

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23F Matters to be included in application under subsection 135ZW (3) of the Act

An application to the Tribunal under subsection 135ZW (3) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or a collecting society; and
- (c) if the applicant is an administering body — state the name of the collecting society; and
- (d) if the applicant is a collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135ZZB of the Act including (if applicable) details of the classes of relevant copyright owners specified in the notice; and
 - (ii) state the name of the administering body; and
- (e) give particulars of the matters that it is proposed should be assessed by use of a sampling system; and
- (f) ask the Tribunal to determine a sampling system to be used to assess:
 - (i) the number of licensed copies made by, or on behalf of, the administering body in a particular period; and
 - (ii) any other matters that are necessary or convenient to be assessed by use of the sampling system.

Note In this regulation, *administering body*, *collecting society*, *licensed copy* and *relevant copyright owner* have the same meaning as in Part VB of the Act.

23G Matters to be included in application under subsection 135ZME (3) of the Act

An application to the Tribunal under subsection 135ZME (3) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) identify the artistic work to which the application relates; and

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- (c) identify the article or other literary, dramatic or musical work (*the article or other work*) to which the application relates; and
- (d) state whether the applicant is the owner, or an owner, of copyright in:
 - (i) the artistic work; or
 - (ii) the article or other work; and
- (e) if applicable, state the names of other relevant copyright owners of:
 - (i) the artistic work; or
 - (ii) the article or other work; and
- (f) ask the Tribunal to determine the division of equitable remuneration to be apportioned between:
 - (i) the owner or owners of the copyright in the artistic work; and
 - (ii) the owner or owners of the copyright in the article or other work.

23H Matters to be included in application under subsection 135ZWA (1) of the Act

An application to the Tribunal under subsection 135ZWA (1) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or a collecting society; and
- (c) if the applicant is an administering body:
 - (i) state the name of the relevant collecting society; and
 - (ii) state the institutions administered by the administering body; and
 - (iii) state the classes of students of institutions it administers; and
- (d) if the applicant is a collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135ZZB of the Act including (if applicable) details of the classes of

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- relevant copyright owners specified in the notice;
and
- (ii) state the name of the administering body; and
- (e) give the following particulars based on assessment by use of an electronic use system:
- (i) the extent to which licensed copies and licensed communications are made by, or on behalf of, the administering body in a particular period;
 - (ii) other matters (if any); and
- (f) ask the Tribunal to determine an amount (whether an annual amount or otherwise) that is equitable remuneration for making licensed copies and licensed communications.

Note In this regulation, *administering body*, *collecting society* and *licensed copy* have the same meaning as in Part VB of the Act.

23J Matters to be included in application under subsection 135ZWA (2) of the Act

An application to the Tribunal under subsection 135ZWA (2) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is an administering body or a collecting society; and
- (c) if the applicant is an administering body — state the name of the collecting society; and
- (d) if the applicant is a collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under section 135ZZB of the Act including (if applicable) details of the classes of relevant copyright owners specified in the notice; and
 - (ii) state the name of the administering body; and
- (e) give particulars of:
 - (i) the matters and processes that are proposed should constitute an electronic use system; and

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- (ii) any other matters that it is proposed should be necessary or convenient to be assessed and taken into account for the purposes of an electronic use system; and
- (f) ask the Tribunal to determine:
 - (i) the electronic use system to be used, including matters and processes constituting the system; and
 - (ii) any other matters that are necessary or convenient to be assessed or taken into account for the purposes of an electronic use system that adequately accounts for licensed copies and licensed communications made by, or on behalf of, the administering body while an electronic use notice is in force.

Note In this regulation, *administering body*, *collecting society* and *licensed copy* have the same meaning as in Part VB of the Act.

23K Matters to be included in application under subsection 135ZZM (1) of the Act

An application to the Tribunal under subsection 135ZZM (1) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is a retransmitter or a collecting society; and
- (c) if the applicant is a retransmitter — state the name of the collecting society; and
- (d) if the applicant is a collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under subsection 135ZZT (1) of the Act; and
 - (ii) state the name of the retransmitter; and
- (e) identify the retransmission or retransmissions to be the subject of the determination; and
- (f) identify the classes of works, sound recordings or cinematograph films which are the subject of the determination and which are included in the retransmission or retransmissions; and

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- (g) ask the Tribunal to determine an amount that is equitable remuneration for the making of the retransmission or retransmissions while the remuneration notice is in force, in so far as that equitable remuneration relates to the identified classes of works, sound recordings or cinematograph films.

Note In this regulation, *collecting society*, *remuneration notice* and *retransmitter* have the same meanings as in Part VC of the Act.

23L Matters to be included in application under subsection 135ZZN (3) of the Act

An application to the Tribunal under subsection 135ZZN (3) of the Act must:

- (a) set out the circumstances or events giving rise to the application; and
- (b) state whether the applicant is a retransmitter or a collecting society; and
- (c) if the applicant is a retransmitter — state the name of the collecting society; and
- (d) if the applicant is a collecting society:
 - (i) give particulars of the notice relating to it published in the *Gazette* under subsection 135ZZT (1) of the Act; and
 - (ii) state the name of the retransmitter; and
- (e) identify the retransmission or retransmissions to be the subject of the determination; and
- (f) ask the Tribunal to determine the record system that in accordance with subsection 135ZZN (2) of the Act is to be used for the purposes of a remuneration notice.

Note In this regulation, *collecting society*, *remuneration notice* and *retransmitter* have the same meanings as in Part VC of the Act.

24 Matters to be included in application under subsection 152 (2)

An application to the Tribunal under subsection (2) of section 152 of the Act shall:

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- (a) state whether the applicant is a broadcaster or the owner of a copyright in a published sound recording;
- (b) if the applicant is an owner of such a copyright — state the name of the broadcaster in relation to whom the application is made;
- (c) specify the period in respect of which an order of the Tribunal is sought; and
- (d) request the Tribunal to make an order determining, or making provision for determining, the amount payable by the broadcaster to the owners of copyrights in published sound recordings in respect of the broadcasting during that period of those recordings by that broadcaster.

25 Matters to be included in application under subsection 152 (12)

An application to the Tribunal under subsection (12) of section 152 of the Act shall:

- (a) specify the order of the Tribunal to which the application relates; and
- (b) request the Tribunal to amend the order so as to specify the applicant as one of the persons among whom the amount specified in, or determined in accordance with, the order is to be divided.

25A Matters prescribed for the purposes of paragraph 153A (3) (b) of the Act

- (1) For the purposes of paragraph 153A (3) (b) of the Act the following matters are prescribed:
 - (a) the nature of the works, sound recordings or cinematograph films included in the broadcasts;
 - (b) the institutions for which the copies of the broadcasts are made;
 - (c) any matters that have been assessed by use of a sampling system determined under subsection 135J (3) of the Act;
 - (d) the need to ensure adequate incentive for the production of educational works, educational sound recordings and educational cinematograph films in Australia;

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- (e) the purpose and character of the copying;
 - (f) the effect of the copying on the market for, or value of, the material included in the broadcasts;
 - (g) the special circumstances of external students including any difficulties faced by those students in meeting the requirements of section 103C of the Act;
 - (h) any unremunerated contribution by institutions to the creation of the material included in the broadcasts.
- (2) In subregulation (1), *external student*, in relation to an institution, means a person undertaking a correspondence course or external study course provided by the institution.

Note In this regulation, *institution* has the same meaning as in Part VA of the Act.

25B Prescribed matters for the purposes of subsection 153C (3) of the Act

- (1) For the purposes of subsection 153C (3) of the Act the following matters are prescribed:
- (a) the nature of the works or eligible items other than works copied;
 - (b) the institutions for which the copies are made;
 - (c) any matters that have been assessed by use of a sampling system determined under subsection 135ZW (3) of the Act;
 - (d) the need to ensure adequate incentive for the production of educational works and eligible items other than works in Australia;
 - (e) the purpose and character of the copying;
 - (f) the effect of the copying on the market for, or value of, the material copied;
 - (g) the special circumstances of external students including any difficulties faced by those students in meeting the requirements of sections 41, 49 or 135ZG of the Act;
 - (h) any unremunerated contribution by institutions to the creation of the material copied.

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- (2) In subregulation (1), *external student*, in relation to an institution, means a person undertaking a correspondence course or external study course provided by the institution.

Note In this regulation, *eligible item* and *institution* have the same meaning as in Part VB of the Act.

26 Matters to be included in reference under section 154

- (1) A reference of a licence scheme to the Tribunal under section 154 of the Act shall:
- (a) state that the licensor referring the scheme proposes to bring the scheme into operation;
 - (b) state whether the scheme relates to licences in respect of literary, dramatic or musical works or to licences in respect of sound recordings, or to licences both in respect of literary, dramatic or musical works and in respect of sound recordings;
 - (c) state whether the licensor referring the scheme is the owner or prospective owner of the copyright in the works or recordings or is acting as agent for the owners or prospective owners in relation to the negotiation or granting of such licences; and
 - (d) request the Tribunal to make such order, confirming or varying the scheme, as the Tribunal considers reasonable in the circumstances.
- (2) The reference shall be accompanied by a copy of the licence scheme.

27 References under section 155

- (1) A reference of a licence scheme to the Tribunal under section 155 of the Act shall:
- (a) state whether the person referring the scheme is:
 - (i) the licensor operating the scheme;
 - (ii) an organization claiming to be representative of persons requiring licences in cases included in a class of cases to which the scheme applies; or

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- (iii) a person claiming that he requires a licence in a case included in class of cases to which the scheme applies;
 - (b) specify the class of cases to which the reference relates;
 - (c) state the name of the other party to the dispute that gave rise to the reference;
 - (d) set out particulars of the matter in dispute; and
 - (e) request the Tribunal to make such order, confirming or varying the scheme, in so far as it relates to the class of cases to which the reference relates, as the Tribunal considers reasonable in the circumstances.
- (2) Where the reference is made by an organization claiming to be representative of persons requiring licences, the Tribunal shall, before determining the question whether the organization is reasonably representative of the class of persons that it claims to represent, give to every other party to the reference, and to every person who has applied to be made a party to the reference and whose application has not been determined, an opportunity of presenting a case in relation to that question.

28 Application for leave under subsection 156 (2) to refer licence scheme to Tribunal

- (1) A person desiring the leave of the Tribunal under subsection (2) of section 156 of the Act to refer a licence scheme to the Tribunal under subsection (1) of that section and desiring that the question whether the leave should be granted be determined before the preliminary hearing or the hearing of the reference shall make an application to the Tribunal in accordance with this regulation.
- (2) The application shall:
- (a) describe the general nature of the scheme as previously confirmed or varied by the Tribunal;
 - (b) specify the class of cases in relation to which the applicant wishes to refer the scheme to the Tribunal;
 - (c) specify the date when the Tribunal last made an order with respect to the scheme in relation to that class of cases and the relevant file number;

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- (d) state the name of the other party to the dispute that gave rise to the application;
 - (e) set out particulars of the matter in dispute;
 - (f) state the grounds on which leave is sought for the making of the reference; and
 - (g) request the Tribunal to grant leave to the applicant to refer the scheme to the Tribunal in so far as it relates to that class of cases.
- (3) The parties to the application are:
- (a) the applicant;
 - (b) if the application is not made by the licensor operating the scheme — that licensor; and
 - (c) such other persons (if any) as apply to the Tribunal to be made parties to the application and, in accordance with the next succeeding subregulation, are made parties to the application.
- (4) Where a person applies to the Tribunal to be made a party to the application and it appears to the Tribunal that the person has a substantial interest in the operation of the scheme in so far as it relates to the class of cases specified in the application, the Tribunal may, if it thinks fit, make that person a party to the application.
- (5) The Tribunal shall consider the application and, after giving to the parties to the application an opportunity of presenting their cases, shall make such order, either granting or refusing the application, as the Tribunal thinks fit.

29 References under section 156

- (1) A reference of a licence scheme to the Tribunal under section 156 of the Act shall:
- (a) specify the date when the Tribunal last made an order with respect to the scheme that is applicable in the class of cases to which the reference relates and the relevant file number;
 - (b) state whether the person referring the scheme is:
 - (i) the licensor operating the scheme;

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- (ii) an organization claiming to be representative of persons requiring licences in cases included in the class of cases to which the order applies; or
 - (iii) a person claiming that he requires a licence in a case included in that class;
 - (c) specify the class of cases to which the reference relates;
 - (d) state the name of the other party to the dispute that gave rise to the reference;
 - (e) set out particulars of the matter in dispute;
 - (f) where leave of the Tribunal is required for the making of the reference:
 - (i) if that leave has already been granted — specify the date when the Tribunal granted the leave and the relevant file number; and
 - (ii) in any other case — state the grounds on which leave is sought for the making of the reference and request the Tribunal to grant leave for the making of the reference; and
 - (g) request the Tribunal to make such order in relation to the scheme as previously confirmed or varied, in so far as it relates to cases included in the class of cases to which the reference relates, whether by way of confirming, varying or further varying the scheme, as the Tribunal considers reasonable in the circumstances.
- (2) Subregulation (2) of regulation 27 of these Regulations applies for the purposes of this regulation.

30 Applications under subsection 157 (1)

- (1) An application to the Tribunal under subsection (1) of section 157 of the Act:
- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall:
 - (i) specify the case in which a licence is required by the applicant;
 - (ii) specify the licence scheme applicable in that case;
 - (iii) state the name of the licensor operating the scheme; and

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- (iv) specify the date or the approximate date on which the applicant requested the licensor to grant him a licence in accordance with the scheme, or to procure the grant to him of such a licence; and
 - (b) shall request the Tribunal to make an order specifying the charges, if any, and the conditions, that the Tribunal considers to be applicable in accordance with the scheme in relation to the applicant.
- (2) The licensor is a party to the application.

31 Applications under subsection 157 (2)

- (1) An application to the Tribunal under subsection (2) of section 157 of the Act:
- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall:
 - (i) specify the case in which a licence is required by the applicant;
 - (ii) specify the licence scheme applicable in that case;
 - (iii) state the name of the licensor operating the scheme; and
 - (iv) specify the charges or conditions to which the grant of a licence in accordance with the scheme would, in that case, be subject and which are claim by the applicant to be unreasonable in the circumstances of the case; and
 - (b) shall request the Tribunal to make an order specifying the charges, if any, and the conditions, that the Tribunal considers reasonable in the circumstances in relation to the applicant.
- (2) The licensor is a party to the application.

32 Applications under subsection 157 (3)

- (1) An application to the Tribunal under subsection (3) of section 157:
- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall:

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- (i) specify the case in which a licence is required by the applicant;
 - (ii) state the name of the licensor concerned;
 - (iii) if paragraph (a) of that subsection is applicable — specify the date or the approximate date on which the applicant requested the licensor to grant him a licence or to procure the grant to him of a licence; and
 - (iv) if paragraph (b) of that subsection is applicable — specify the charges or conditions to which the licensor proposes that the licence should be subject and which are claimed by the applicant to be unreasonable; and
- (b) shall request the Tribunal to specify the charges, if any, and the conditions, that the Tribunal considers reasonable in the circumstances in relation to the applicant.
- (2) The licensor is a party to the application.

33 Applications under subsection 157 (4)

- (1) An application to the Tribunal under subsection (4) of section 157 of the Act:
- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall:
 - (i) specify the cases in which licences are required by persons represented by the applicant;
 - (ii) state the name of the licensor concerned;
 - (iii) if paragraph (a) of that subsection is applicable — specify the dates or the approximate dates on which the licensor was requested to grant licences to persons represented by the applicant, or to procure the grant of such licences; and
 - (iv) if paragraph (b) of that subsection is applicable — specify the charges or conditions to which the licensor proposes that licences to be grant to persons represented by the applicant should be subject and which are claimed by the applicant to be unreasonable; and

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(b) shall request the Tribunal to specify the charges, if any, and the conditions, that the Tribunal considers reasonable in the circumstances in relation to the persons represented by the applicant.

(2) The licensor is a party to the application.

33C Applications to fix terms under subsection 183 (5) of the Act

An application to the Tribunal to fix terms under subsection 183 (5) of the Act for the doing of an act comprised in the copyright by the Commonwealth or a State or a person authorized in writing by the Commonwealth or a State:

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall:
- (i) identify the work or other subject-matter to which the application relates;
 - (ii) identify the act comprised in the copyright that was done, or is proposed to be done, under subsection 183 (1);
 - (iii) state whether the applicant is the owner of the copyright in the work or other subject-matter or the Commonwealth or a State;
 - (iv) if the applicant is the owner of the copyright — state whether the act that was done, or is proposed to be done, under subsection 183 (1) was done, or is proposed to be done, by the Commonwealth or a State, and if done or proposed to be done by a State, identify the State; and
 - (v) if the applicant is the Commonwealth or a State — state the name of the copyright owner; and
- (b) shall request the Tribunal to fix terms as between the copyright owner and the Commonwealth or the State for the doing of any of the acts comprised in the copyright under subsection 183 (1).

Regulation 33D

33D Applications to Tribunal for determination of reasonable compensation payable — copyright in photographs

- (1) This regulation applies to an application made to the Tribunal under item 118 of the USFTAIA.
- (2) An application must:
 - (a) identify the photograph to which the application relates; and
 - (b) set out the names of the parties to the application, identifying:
 - (i) the owner of the copyright in the photograph (the *copyright owner*); and
 - (ii) the person mentioned in paragraph (1) (b) of item 118 of the USFTAIA (the *copyright user*); and
 - (c) set out the circumstances or events giving rise to the application; and
 - (d) be accompanied by:
 - (i) the written agreement mentioned in paragraph (1) (b) of item 118 of the USFTAIA that is the subject of the application, or a copy of the agreement; or
 - (ii) if the applicant does not have access to the agreement, or a copy — a statement to that effect; and
 - (e) specify the date or the approximate date on which the copyright in the photograph ends; and
 - (f) be accompanied by a copy of the written notice of objection (if any) given by the copyright owner to the copyright user; and
 - (g) specify the amount of compensation already offered by the copyright owner to the copyright user and the date on which the offer was made; and
 - (h) ask the Tribunal to determine an amount of reasonable compensation to be paid by the copyright owner to the copyright user.
- (3) If the Tribunal is satisfied that an amount of reasonable compensation must be paid, the Tribunal must specify the date

Regulation 33E

by which the copyright owner must pay the amount of compensation.

(4) In this regulation:

owner has the meaning given by subitem 118 (8) of the USFTAIA.

USFTAIA means the *US Free Trade Agreement Implementation Act 2004*.

33E Applications to Tribunal for determination of reasonable compensation — copyright in works and other subject matter

- (1) This regulation applies to an application made to the Tribunal under item 132 of the USFTAIA.
- (2) An application must:
 - (a) identify the work or other subject matter to which the application relates; and
 - (b) set out the names of the parties to the application, identifying:
 - (i) the owner of the copyright in the work or other subject matter (the *copyright owner*); and
 - (ii) the person mentioned in paragraph (1) (b) of item 132 of the USFTAIA (the *copyright user*); and
 - (c) set out the circumstances or events giving rise to the application; and
 - (d) be accompanied by:
 - (i) the written agreement mentioned in paragraph (1) (b) of item 132 of the USFTAIA that is the subject of the application, or a copy of the agreement; or
 - (ii) if the applicant does not have access to the agreement, or a copy — a statement to that effect; and
 - (e) specify the date or the approximate date on which the copyright in the work or other subject matter ends; and

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- (f) be accompanied by a copy of the written notice of objection (if any) given by the copyright owner to the copyright user; and
 - (g) specify the amount of compensation already offered by the copyright owner to the copyright user and the date on which the offer was made; and
 - (h) ask the Tribunal to determine an amount of reasonable compensation to be paid by the copyright owner to the copyright user.
- (3) If the Tribunal is satisfied that an amount of reasonable compensation must be paid, the Tribunal must specify the date by which the copyright owner must pay the amount of compensation.
- (4) In this regulation:
- owner* has the meaning given by subitem 132 (8) of the USFTAIA.
- USFTAIA* means the *US Free Trade Agreement Implementation Act 2004*.

34 Application to be made a party to a proceeding

- (1) An application to the Tribunal to be made a party to a proceeding shall:
- (a) specify the date when the proceeding was instituted and the relevant file number;
 - (b) set out the interest of the applicant:
 - (i) where the proceeding is an application under section 152 of the Act — in the matter that is the subject of that application;
 - (ii) where the proceeding is a reference under section 154 of the Act — in the operation of the scheme to which the reference relates;
 - (iii) where the proceeding is a reference under section 155 or section 156, or an application under section 157, of the Act — in the matter in dispute; and
 - (iv) where the proceeding is an application for leave of the Tribunal under subsection (2) of section 156 of

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- the Act to refer a licence scheme to the Tribunal —
in the operation of the scheme in so far as it relates
to the class of cases specified in that application; and
- (c) request the Tribunal to make the person a party to the proceeding.
- (2) The Tribunal shall give to the applicant, to every party to the proceeding, and to every other person who has applied to be made a party to the proceeding and whose application has not been determined, an opportunity of presenting a case.

35 Other applications

- (1) A party to a proceeding (other than an application to which the last preceding regulation applies) may apply to the Tribunal requesting the Tribunal to make an order with respect to any matter relating to the proceeding.
- (2) The application shall specify the date when the proceeding was instituted and the relevant file number and shall set out the circumstances or events giving rise to the application.
- (3) A party to the proceeding may consent to the making of the order sought by the application.
- (4) The consent of a party may be endorsed on the application or set out in a separate document filed with the Secretary but, if the consent is set out in a separate document that is not filed with the application, that party shall serve a copy of the document on the applicant within seven days after the document is filed.
- (5) Service of notice of the making of the application, or of a copy of the application, is not required to be effected on a party to the proceeding who has consented to the making of the order sought by the application and service of such a notice or copy on any other person may, with the leave of the President or of the Tribunal, be dispensed with.
- (6) A party to the proceeding may lodge an objection to the application by filing with the Secretary a notice of objection within fourteen days after the notice of the making of the application was served on him.

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- (7) A person lodging an objection shall cause a sealed copy of the notice of objection to be served on the applicant within seven days after notice of the objection is filed with the Secretary.
- (8) A notice of objection shall:
- (a) be in writing addressed to the Secretary;
 - (b) specify the date on which the application was filed with the Secretary and the relevant file number;
 - (c) state the name of the party lodging the objection;
 - (d) state the grounds of the objection; and
 - (e) be signed by or on behalf of the party lodging the objection.
- (9) The Tribunal shall consider the application and, subject to the next succeeding subregulation, may make such order in relation to the application as the Tribunal considers reasonable in the circumstances.
- (10) The Tribunal shall not refuse the application in whole or in part without giving the applicant an opportunity of presenting his case and, if an objection has been lodged to the application, shall not grant the application in whole or in part without giving the party by whom the objection was lodged an opportunity of presenting his case.

Regulation 36

Part V Ancillary matters**36 Consolidation of applications and references**

- (1) Where two or more applications are pending before the Tribunal, the Tribunal may, of its own motion or on the application of a party to any of the applications, direct that some or all of the applications be considered together and may give such consequential directions as the Tribunal considers necessary.
- (2) Where two or more references are pending before the Tribunal in relation to the one licence scheme, the Tribunal may, of its own motion or on the application of a party to any of the references, direct that some or all of the references be considered together and may give such consequential directions as the Tribunal considers necessary.
- (3) Before giving a direction under either of the last two preceding subregulations, the Tribunal shall give each party to each of the application or references concerned an opportunity of presenting a case.

36A Directions as to procedure

- (1) For the purposes of section 164 of the Act:
 - (a) if the Tribunal has not commenced hearing a matter, the President may:
 - (i) give directions; or
 - (ii) authorise a member to give directions;as to the procedure to be followed in connection with the hearing of the matter before the Tribunal; or
 - (b) if the Tribunal has commenced hearing a matter:
 - (i) the member presiding; or
 - (ii) any other member authorised by the member presiding;

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may give directions as to the procedure to be followed in connection with the hearing of the matter before the Tribunal.

- (2) A direction or authorisation given under subregulation (1) may be varied or revoked at any time by the member entitled under this regulation to give it.
- (3) A direction or authorisation by the President under subregulation (1) may:
 - (a) be of general application ; or
 - (b) relate to the hearing of:
 - (i) a particular matter; or
 - (ii) a matter included in a particular class of matters.

37 Request as to constitution of Tribunal

- (1) A request under paragraph (b) of subsection (3) of section 146 of the Act by a party to an application or reference that the Tribunal be constituted by more than one member for the purposes of that application or reference shall:
 - (a) be in writing addressed to the Secretary;
 - (b) specify the date on which the application or reference was filed with the Secretary and the relevant file number;
 - (c) state the name of the party making the request;
 - (d) be signed by or on behalf of that party; and
 - (e) be filed with the Secretary before the Tribunal begins to consider the application or reference.
- (2) The party making the request shall cause a sealed copy of the request to be served, within seven days after the request is filed with the Secretary, on every other party to the application or reference.

37A Secretary may request further copies of documents

- (1) If the Tribunal that is to hear an application is to comprise more than 1 member, the Secretary may require a party to the application to provide the Secretary with a stated number of

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further copies of all or any specified documents previously filed by the party in relation to the application.

- (2) A requirement under subregulation (1) is in addition to the requirements set out in regulation 7.

38 Withdrawal of application

- (1) A person who has made an application to the Tribunal may, with the leave of the Tribunal, withdraw the application at any time before the Tribunal has determined the application.
- (2) The leave of the Tribunal under the last preceding subregulation may be granted unconditionally or subject to such conditions as the Tribunal thinks reasonable.
- (3) Where the Tribunal has granted leave for the withdrawal of an application, the withdrawal shall be effected by:
- (a) the filing with the Secretary of a notice in writing:
- (i) addressed to the Secretary;
 - (ii) specifying the date on which the application was made and the relevant file number;
 - (iii) stating that the person who made the application withdraws the application; and
 - (iv) signed by or on behalf of that person; and
- (b) the serving of a sealed copy of the notice on every party to the application.

39 Withdrawal of reference licence scheme

The withdrawal under subsection (6) of section 154 of the Act, or subsection (7) of section 155 of the Act (including that subsection as having effect by reason of subsection (5) of section 156 of the Act), of a reference of a licence scheme shall be effected by:

- (a) the filing with the Secretary of a notice in writing:
- (i) addressed to the Secretary;
 - (ii) specifying the date on which the scheme was referred and the relevant file number;

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- (iii) stating that the person who referred the scheme withdraws the reference; and
- (iv) signed by or on behalf of that person; and
- (b) the serving of a sealed copy of the notice on every party to the reference.

40 Request for reference of question of law to Federal Court

- (1) For the purposes of subsection (1) of section 161 of the Act, a request to the Tribunal for the reference of a question of law in a proceeding to the Federal Court of Australia shall:
 - (a) be in writing addressed to the Secretary;
 - (b) state the name of the party making the request;
 - (c) specify the question of law;
 - (d) request the Tribunal to refer that question to the Federal Court of Australia;
 - (e) be signed by or on behalf of the party making the request; and
 - (f) be filed with the Secretary.
- (2) The party making the request shall cause notice of the making of the request, together with a sealed copy of the request, to be served on every other party to the proceedings:
 - (a) in the case where the hearing of the proceeding to which the request relates, has not commenced or has been adjourned — within 7 days after the filing of the request with the Secretary but not later than the date fixed for the commencement of the hearing or to which the hearing has been adjourned; or
 - (b) in any other case — within 7 days after the filing of the request with the Secretary.
- (3) For the purposes of the last preceding subregulation, a notice of the making of a request:
 - (a) shall be in writing addressed to the party on whom it is served; and

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- (b) shall inform that party that he may, within twenty-one days after service of the notice, present a case in writing to the Tribunal in relation to the request.
- (4) The party making the request may within twenty-one days after the request is filed with the Secretary, and every other party to the proceeding may within twenty-one days after service on that party of the notice of the making of the request, present a case in writing to the Tribunal in relation to the request and the Tribunal may, if it thinks fit, give to each of those parties an opportunity of presenting a case orally to the Tribunal.
- (5) The Secretary shall cause notice of the decision of the Tribunal on the request to be served on the party that made the request and on every other party that presented a case to the Tribunal in relation to the request or notified the Tribunal that the party wished to be informed of the decision.

40A Fixing of a new date for hearing or further hearing where a party makes a request under subsection 161 (1) of the Act

- (1) Where a party makes a request under subsection 161 (1) of the Act in a proceeding and a date has been fixed for the hearing or a further hearing of that proceeding that is less than 28 days from the date of the filing of the request, the President shall fix a new date for the hearing or further hearing of that proceeding that is more than 28 days from the date of the filing of the request.
- (2) The Secretary shall cause notice of the date fixed by the President under subregulation (1) to be served on the parties to the proceeding.

40B Prescribed period for purposes of subsection 161 (2) of the Act

For the purposes of subsection 161 (2) of the Act, the prescribed period is 28 days from the date on which the Tribunal gave its decision.

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40C Prescribed period for purposes of subsection 161 (3) of the Act

For the purposes of subsection 161 (3) of the Act, the prescribed period is 28 days from the date on which the Tribunal refuses the request for a reference.

40D Adjournment pending decision of Federal Court

Where the Tribunal refers a question of law arising in proceedings before it for determination by the Federal Court of Australia under subsection 161 (1) of the Act, being proceedings in which the Tribunal has not given its decision, the Tribunal shall adjourn its hearing of those proceedings until the question referred has been heard and determined by the Federal Court of Australia.

41 Suspension of orders of Tribunal pending reference of question of law to Federal Court

- (1) Where, after the date on which the Tribunal has given its decision in a proceeding, the Tribunal refers to the Federal Court of Australia a question of law that arose in the course of the proceeding, the Tribunal may, if it thinks fit, suspend the operation of any order made by the Tribunal in the proceeding.
- (2) Where an order of the Tribunal is so suspended, the Secretary shall cause notice in writing of the suspension to be served on every party to the proceeding and, if particulars of the order have been published in pursuance of a direction under subregulation (4) of regulation 15 of these Regulations, shall cause particulars of the suspension to be published in such newspaper or newspapers circulating in Australia as the President directs.

42 Proceedings before Tribunal after determination of question of law by Federal Court

- (1) Where a question of law arising in a proceeding has been referred to, and determined by, the Federal Court of Australia in pursuance of section 161 of the Act, any party to the

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proceeding before the Court may file with the Secretary an office copy of the order of the Court.

- (2) Subject to the next succeeding subregulation, when a copy of the order of the Federal Court of Australia has been filed in pursuance of the last preceding subregulation, the President shall fix a time and place for the resumption of the hearing of the proceeding and the Secretary shall cause notice of the time and place so fixed to be served on the parties to the proceeding.
- (3) The last preceding subregulation does not apply where the question of law was referred to the Federal Court of Australia after the Tribunal had given its decision in the proceeding and that decision is consistent with the determination of the Federal Court of Australia.

43 Amendment of documents

- (1) The Tribunal may grant leave to a party to a proceeding to amend a document previously filed with the Secretary by that party in connexion with that proceeding.
- (2) The leave of the Tribunal under the last preceding subregulation may be granted unconditionally or subject to such conditions as the Tribunal thinks reasonable.
- (3) Where leave is granted to a party to a proceeding to amend a document, the party shall file with the Secretary a statement of the amendments and, upon the filing of the statement, the amendments shall be deemed to be made.
- (4) The party filing the statement shall cause a sealed copy of the statement to be served on every other party to the proceeding within seven day after the statement is filed.
- (5) Nothing in this regulation prevents a person filing a notice specifying a new address for service in accordance with regulation 11 of these Regulations.

Part VI Miscellaneous

44 Summons to witness

- (1) A summons to a witness under subsection (2) of section 167 of the Act shall be substantially in accordance with Form 2 in Schedule 1 to these Regulations.
- (2) A summons under subsection (2) of section 167 of the Act shall be served on a person by:
 - (a) delivering a copy of the summons to the person personally; and
 - (b) showing the summons to the person at the time at which the copy is delivered to him.

45 Extension of time

The Tribunal or the President may, whether before or after the expiration of the time prescribed or allowed by or under these Regulations for the filing of a document with the Secretary, the serving of a document on a person or the doing of any other act, extend that time for such period or periods, and subject to such conditions, as the Tribunal or the President thinks fit.

46 Fees

The fees specified in Schedule 2 to these Regulations are payable in respect of the matters in relation to which they are so specified.

47 Payment of witnesses' fees and expenses

Where a witness:

- (a) attends to give evidence in a proceeding;
- (b) attends to give evidence and produce documents or articles in a proceeding; or
- (c) attends to produce documents or articles in a proceeding;

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in accordance with a summons, or at the request of a party to the proceeding or of the Tribunal, payment of fees and expenses to the witness shall be made by the person on whose behalf the witness is summoned or at whose request the witness attends or, if the witness is summoned or requested to attend on behalf of the Tribunal, by the Commonwealth.

48 Power to waive procedural requirements and effect of non-compliance

- (1) Subject to the Act, the Tribunal may, in relation to any proceeding, in special circumstances, and either absolutely or subject to conditions, exempt a person from compliance with any procedural requirements of these Regulations.
- (2) Subject to the Act, non-compliance with any of these Regulations does not render void a proceeding or an order of the Tribunal, but the proceeding or order may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with, by the Tribunal in such manner and upon such terms as the Tribunal thinks fit.

Schedule 1 Forms

(regulations 9 and 44)

Form 1 Title of proceeding

Commonwealth of Australia

Copyright Act 1968

In the Copyright Tribunal

File No.

Application [*or* Reference] by

or

Re Application [*or* Reference] by

or

Re Inquiry into

Schedule 2 Fees

(regulation 46)

Item	Matter	Fee
		\$
1	For a photographic copy of a document —	
	(a) for one page	0.80
	(b) for each additional page	0.20
2	For a copy of the reasons for an order made by the Tribunal —	
	(a) for one page	0.80
	(b) for each additional page	0.20

Table of Statutory Rules

Notes to the *Copyright Tribunal (Procedure) Regulations 1969***Note 1**

The *Copyright Tribunal (Procedure) Regulations 1969* (in force under the *Copyright Act 1968*) as shown in this compilation comprise Statutory Rules 1969 No. 59 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
1969 No. 59	28 Apr 1969	1 May 1969 (see r. 2 and <i>Gazette</i> 1969, p. 2543)	
1974 No. 186	15 Oct 1974	15 Oct 1974	—
1983 No. 125	5 Aug 1983	5 Aug 1983	—
1987 No. 35	12 Mar 1987	12 Mar 1987	—
1992 No. 166	25 June 1992	25 June 1992	—
1998 No. 357	22 Dec 1998	22 Dec 1998	—
2001 No. 9	13 Feb 2001	4 Mar 2001 (see r 2)	—
2004 No. 363	23 Dec 2004	Rr. 1-3 and Schedule 1: 1 Jan 2005 Remainder: 1 Jan 2005 (see r. 2)	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part I	
R. 1.....	rs. 1998 No. 357
R. 3.....	rep. 1998 No. 357
Part II	
R. 7.....	am. 1992 No. 166
R. 9.....	am. 2001 No. 9
R. 15.....	am. 1983 No. 125
Part III (r. 16).....	rep. 1998 No. 357
R. 16.....	rep. 1998 No. 357
Part IV	
R. 18.....	am. 1983 No. 125; 1992 No. 166; 2001 No. 9
R. 19A	ad. 1983 No. 125 rs. 1992 No. 166
R. 19B	ad. 1983 No. 125 rep. 1992 No. 166
R. 23A	ad. 1992 No. 166 am. 1998 No. 357; 2001 No. 9
R. 23B	ad. 1992 No. 166 am. 1998 No. 357; 2001 No. 9
R. 23C	ad. 1992 No. 166 am. 1998 No. 357; 2001 No. 9
R. 23CA.....	ad. 2001 No. 9
R. 23CB.....	ad. 2001 No. 9
R. 23D	ad. 1992 No. 166
R. 23E	ad. 1992 No. 166
R. 23F.....	ad. 1992 No. 166
R. 23G	ad. 2001 No. 9
R. 23H	ad. 2001 No. 9
R. 23J.....	ad. 2001 No. 9
R. 23K	ad. 2001 No. 9
R. 23L.....	ad. 2001 No. 9
R. 25A	ad. 1992 No. 166
R. 25B	ad. 1992 No. 166
R. 25C	ad. 1992 No. 166 rep. 1998 No. 357
Rr. 33A, 33B	ad. 1983 No. 125 rep. 1992 No. 166
R. 33C	ad. 1983 No. 125

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 33D	ad. 2004 No. 363
R. 33E	ad. 2004 No. 363
R. 34.....	am. 1992 No. 166; 1998 No. 357
Part V	
R. 36A	ad. 1992 No. 166
R. 37A	ad. 1992 No. 166
R. 40.....	am. 1983 No. 125
R. 40A	ad. 1983 No. 125
R. 40B	ad. 1983 No. 125
R. 40C	ad. 1983 No. 125
R. 40D	ad. 1983 No. 125
Rr. 41, 42.....	am. 1983 No. 125
R. 42.....	am. 1983 No. 125
Part VI	
R. 44.....	am. 2001 No. 9
R. 46.....	am. 2001 No. 9
R. 47.....	rs. 1987 No. 35
Schedule 1	
Heading to The Schedules	rep. 2001 No. 9
Heading to First Schedule	rep. 2001 No. 9
Heading to Schedule 1	ad. 2001 No. 9
Schedule 1 (formerly First Schedule)	am. 1998 No. 357; 2001 No. 9
Form 1.....	1969 No. 59
Form 2.....	1969 No. 59 am. 1998 No. 357 rs. 2001 No. 9
Heading to Second Schedule	rep. 2001 No. 9
Heading to Schedule 2	ad. 2001 No. 9
Schedule 2..... (formerly Second Schedule)	am. 1974 No. 186 rs. 1983 No. 125
Third Schedule.....	am. 1983 No. 125 rep. 1987 No. 35