



Statutory Rules 1991 No. L¹

452/

Copyright (International Protection) Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and being satisfied that, in respect of performances to which the provisions of the *Copyright Act 1968* relate, provision has been or will be made under the law of each country specified in Part IV of Schedule 1 to the Copyright (International Protection) Regulations under which adequate protection is or will be given to performers whose performances are protected under that Act, make the following Regulations under that Act.

Dated *12 December* 1991.

BILL HAYDEN

Governor-General

By His Excellency's Command,

MICHAEL DUFFY

Attorney-General

1. Commencement

1.1 These Regulations commence on 2 January 1992.

2. Amendment

2.1 The Copyright (International Protection) Regulations are amended as set out in these Regulations.

3. Regulation 3 (Interpretation)

3.1 Subregulation 3 (1) (definition of “at a material time”):

Add at the end:

“ and

(d) in relation to a performance—the time when the performance was given;”.

3.2 Subregulation 3 (1):

Insert the following definition:

“‘**performance**’ means a performance of a kind referred to in paragraph (a), (b), (c), (d) or (e) of the definition of ‘performance’ in subsection 248A (1) of the Act but does not include a performance of a kind referred to in subsection 248A (2) of the Act;”.

4. New regulation 4A

4.1 After regulation 4, insert:

Application of Act to performances

“4A. (1) Subject to regulation 10B, the provisions of Part XIA of the Act apply to a performance given in a country that constitutes, or forms part of, the territory of a country specified in Part IV of Schedule 1 in the same way as those provisions apply to a performance given in Australia.

“(2) Subject to regulation 10B, the provisions of Part XIA of the Act apply to persons who at a material time are citizens or nationals of a country specified in Part IV of Schedule 1 in the same way as those provisions apply to persons who, at a material time, are Australian citizens.

“(3) Subject to regulation 10B, the provisions of Part XIA of the Act apply to persons who at a material time are resident in a country that constitutes, or forms part of the territory of, a country specified in Part IV of Schedule 1 in the same way as those provisions apply to persons who, at a material time, are resident in Australia.

“(4) Subject to regulation 10B, the provisions of Part XIA of the Act apply to the class of performances that comprises performances incorporated in a sound recording if:

- (a) the maker of the sound recording of a performance is at a material time a citizen, a national or a resident of; or
- (b) the first recording of the performance occurred in; a country that constitutes, or forms part of the territory of, a country specified in Part IV of Schedule 1.

“(5) Subject to regulation 10B, the provisions of Part XIA of the Act apply to the class of performances that:

- (a) comprises performances incorporated in a sound broadcast or a television broadcast (except performances to which subregulation (4) applies); and
- (b) is made by a relevant broadcaster from a country that constitutes, or forms part of the territory of, a country specified in Part IV of Schedule 1.”.

5. New regulation 10B

5.1 After regulation 10A, insert:

Application of the Act in relation to performances

“10B. No rights arising under regulation 4A in relation to a performance subsist in Australia before the commencement of this regulation.”.

[NOTE: Regulation 10B commenced on 2 January 1992.]

6. New regulation 13

6.1 After regulation 12, insert:

Modification of application of provisions of the Act to performances

“13. (1) If a person has, at any time before the commencement of this regulation, taken action by which he or she has incurred expenditure or liability in connection with the doing of an act in relation to a performance in a manner that at the time was lawful, or for the purpose of or with a view to the doing of an act in relation to a performance at a time when the doing of the act would, but for the making of this regulation, have been

lawful, nothing in these Regulations diminishes or prejudices any right or interest arising in connection with the action that is subsisting and valuable immediately before the commencement of this regulation unless the performer of the performance agrees to pay reasonable compensation to the person.

“(2) If:

- (a) by an amendment of these Regulations the name of a country is included in Part IV of Schedule 1; and
- (b) a person has, at any time before the date on which the amendment comes into operation, taken action by which he or she has incurred expenditure or liability in connection with the doing of an act in relation to a performance in a manner that at the time was lawful, or for the purpose of or with a view to the doing of an act in relation to a performance at a time when the doing of the act would, but for the amendment, have been lawful;

nothing in these Regulations diminishes or prejudices any right or interest arising in connection with the action that is subsisting and valuable immediately before the commencement of the amendment unless the performer of the performance agrees to pay reasonable compensation to the person.

“(3) For the purposes of subregulation (2), if:

- (a) Part IV of Schedule 1 is remade; and
- (b) on the remaking, the name of a country is included in the Part; and
- (c) immediately before the remaking, the name of the country was not included in the Part:

the remaking of the Part is taken to be an amendment of these Regulations that inserts the name of the country in Part IV.”.

[NOTE: Regulation 13 commenced on 2 January 1992.]

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 1991. 19 December
2. Statutory Rules 1969 No. 60 as amended by Statutory Rules 1969 No. 65; 1974 No. 137; 1980 No. 276; 1981 No. 74; 1983 No. 127; 1984 No. 43; 1990 Nos. 356 and 357;

; 1991 No. 451