Copyright Rules

C.R.C., c. 422 No amendments since 1994/01/26

COPYRIGHT ACT

Copyright Rules (C.R.C., c. 422) RULES RESPECTING THE ADMINISTRATION OF THE COPYRIGHT ACT

SHORT TITLE

1. These Rules may be cited as the *Copyright Rules*.

INTERPRETATION

2. In these Rules,

"Act" means the *Copyright Act*; "Commissioner" means the Commissioner of Patents; "Office" means the Copyright Office. (*Bureau*) SOR/94-32, s. 1.

PART I COPYRIGHT ROYALTY SYSTEM (GENERAL)

Notice

- **3.** The notice required by section 7 of the Act shall contain the following particulars:
 - (a) the name and address of the person intending to reproduce the work;

(b) the name of the work that it is intended to reproduce and, if necessary, a description sufficient to identify it;

(c) the manner in which it is intended to reproduce the work, that is to say, whether by printing, lithography, photography, or otherwise;

- (d) the price at which it is intended to publish the work; and
- (e) the earliest date at which any of the copies will be delivered to a purchaser.
- 4. Not less than one month before any copies of the work are delivered to a purchaser,

(a) if the name and address of the owner of the copyright, or his agent for the receipt of notice, are known or can with reasonable diligence be ascertained, the notice described in section 3 shall be sent by registered mail to such owner or agent at such address; or

(b) if such name and address are not known and cannot with reasonable diligence be ascertained, the notice described in section 3 shall be published by advertisement in the *Canada Gazette* and the advertisement shall give the particulars required by paragraphs 3(a) and (b) and shall also state an address from which a copy of the notice may be obtained.

Payment of Royalties

5. –

(1) Unless otherwise agreed, royalties shall be paid by means of adhesive labels purchased from the owner of the copyright and affixed to the copies of the work.

(2) After the person reproducing the work has given the prescribed notice of his intention to reproduce the work, the owner of the copyright shall, in writing, sent in registered mail, intimate to that person some reasonably convenient place within Canada from which adhesive labels can be obtained and on demand in writing and tender of the price the owner of the copyright shall supply from such place adhesive labels of the required denominations at a price equal to the amount of royalty represented thereby.

(3) Except as provided in these Rules, no copy of the work shall be delivered to a purchaser until such label or labels denoting the amount of royalty have been affixed thereto.

(4) Where royalties are payable by means of adhesive labels and at any time labels of the required denomination are not available for the reason that

(*a*) after the expiration of 30 days from the date of the prescribed notice, the owner of the copyright has not as required by these Rules sent to the person reproducing the work an intimation of some reasonably convenient place within Canada from which labels can be obtained, or

(b) the owner of the copyright refuses or neglects to supply such labels within 30 days after demand duly made,

copies of the work may be delivered to purchasers without having labels affixed thereto; and the amount of royalties shall be a debt due from the person reproducing the work to the owner of the copyright, and the person reproducing the work shall keep an account of all such copies sold by him.

(5) For the purposes of this section, "the date of the prescribed notice" means

(*a*) in cases where the notice is required to be sent by registered mail, the date when the notice would in the ordinary course of post be delivered; and

(b) in cases where the notice is required to be advertised in the *Canada Gazette*, the date of such advertisement.

(6) Where royalties are payable by agreement in any other mode than by means of adhesive labels, the time and frequency of the payment shall be such as are specified in the agreement.

(7) The adhesive label supplied pursuant to this section shall be an adhesive paper label that is square in shape, the design on the label shall be entirely enclosed within a circle and each side of the label shall be not greater than 3/4 inch in length; the label shall not bear the effigy of the Sovereign or any other person, nor any word, mark or design as to suggest that the label is issued by or under the authority of the Government of Canada or for the purpose of denoting any duty payable to Canada.

PART II COPYRIGHT ROYALTY SYSTEM (BOOKS)

Application for Licence

6. The application for a licence required by section 14 of the Act shall be in Form 1 of the schedule and shall be sent in triplicate by mail or by delivery to the Commissioner.

Notice of Application for Licence

7. The notice of an application for a licence required by subsection 14(4) of the Act shall be in Form 2 of the schedule, and

(a) if the name and address of the owner of the copyright, or his agent for the receipt of notice, is known or can with reasonable diligence be ascertained, shall be sent by registered mail or, upon the

request of the applicant and at his expense, by telegraph or cable to such owner or agent at such address; or

(b) if the name and address of the owner or his agent is not known and cannot with reasonable diligence be ascertained, shall be advertised in the *Canada Gazette*, at the expense of the applicant for the licence.

8. The undertaking and security required by subsection 14(5) of the Act shall be in Form 3 of the schedule, or shall be provided by the bond of a recognized guarantee company of Canada that is approved by the Commissioner.

9. –

(1) The delays within which the owner of the copyright shall, after communication of the notice required by subsection 14(4) of the Act, give the undertaking and security prescribed in section 8, shall be as follows:

- (a) if the copyright owner is resident within Canada or the United States, two weeks;
- (b) if the copyright owner is resident in Europe, three weeks; and
- (c) if the copyright owner is resident elsewhere, six weeks.
- (2) For the purposes of this section, "communication of the notice" means,

(*a*) in cases when the notice is required to be sent by registered mail, the date when the notice would in the ordinary course of post be delivered;

(b) in cases when the notice is required to be advertised in the *Canada Gazette*, the date of publication of such advertisement; and

(c) in cases where the notice is sent by telegram or cable, the date upon which such telegram or cable is delivered as certified by the sending telegraph or cable company.

Fees

10. A fee of \$10 shall be paid by the applicant in respect of every application for a licence under section 6.

11. The licences issued under section 14 of the Act may be in accordance with Form 4 of the schedule.

When a Licence is Granted

12. –

(1) When a licence is granted, the licensee shall remit to the Commissioner by certified cheque payable at par in Ottawa four days before any copy of the book printed under licence is distributed, the balance, if any, due on payment of royalties, accompanied by a statutory declaration of the number of copies printed.

(2) When more than one edition is authorized by a licence, the licensee shall comply with the provisions of this section in respect of the issue of each edition succeeding the first.

13. Each copy of each edition shall be marked with the number of the edition and shall bear on the title page thereof the name and address of the printer of the book.

PART III COPYRIGHT ROYALTY SYSTEM (SERIALS)

Application for Licence

14. The application for a licence required by section 15 of the Act shall be in Form 5 of the schedule, and shall be sent by mail or by delivery to the Commissioner.

15. –

(1) The applicant for a licence shall, before making the application, send in duplicate to the copyright owner by registered mail a draft contract in the form annexed to Form 5 of the schedule.

(2) If, within a reasonable time after the date when the contract would in the ordinary course of post have been delivered to the copyright owner, he fails to sign and to return the contract duly signed, he shall be deemed to have refused to sign it and the applicant may proceed to file his application.

16. When filing an application under section 14, the applicant shall deposit with the Commissioner the amount of money that the applicant offered to pay to the copyright owner in the draft contract sent to him.

- **17.** The Commissioner may
 - (a) determine what is a reasonable time for the purposes of section 15; and
 - (b) fix the royalty paid by the licensee where the parties have not agreed.

18. Notice of an application for a licence under section 15 of the Act may be in Form 6 of the schedule, and may be sent by the Commissioner to the owner of the copyright.

Fees

19. A fee of \$10 shall be paid by the applicant in respect of every application for a licence under section 14.

20. A licence issued under the provisions of section 15 of the Act may be in Form 7 of the schedule.

PART IV COPYRIGHT ROYALTY SYSTEM (MECHANICAL INSTRUMENTS)

Notice

21. –

(1) Where royalties are payable on contrivances that have been made before January 1, 1924, the notice required by section 19 of the Act shall contain the following particulars:

- (a) the name and address of the person who has made the contrivances;
- (*b*) the name of the work which has been reproduced and of the author, if known, and, if necessary, a description sufficient to identify the work;

(c) the class of contrivance on which the work has been reproduced, that is to say, whether on discs, cylinders, music rolls or otherwise;

(d) the earliest date at which any of the contrivances will be delivered to a purchaser; and

(e) whether any other work has been reproduced on the same playing surface of a disc or on the same perforated roll or other contrivance with the work specified in accordance with paragraph (b).

same periorated for or other contrivance with the work specified in accordance with paragraph (b). Where a person intends to make a contrivance, the notice required by personable 10(1)(b) of the Act

(2) Where a person intends to make a contrivance, the notice required by paragraph 19(1)(b) of the Act shall contain the following particulars:

(a) the name and address of the person intending to make the contrivances;

(*b*) the name of the work it is intended to reproduce and of the author, if known, and, if necessary, a description sufficient to identify the work;

(c) the class of contrivance on which it is intended to reproduce the work, that is to say, whether on discs, cylinders, music rolls, or otherwise;

(d) the earliest date at which any of the contrivances will be delivered to a purchaser; and

(e) whether any other work is to be reproduced on the same playing surface of a disc or on the same perforated roll or other contrivance with the work specified in accordance with paragraph (b).

22. Not less than 10 days before any contrivances on which the work is reproduced are delivered to a purchaser,

(a) if the name and address of the owner of the copyright, or his agent for the receipt of notice, are known or can with reasonable diligence be ascertained, the notice described in section 21 shall be sent by registered mail or by prepaid telegraph to such owner or agent at such address; or

(b) if such name and address are not known and cannot with reasonable diligence be ascertained, the notice described in section 21 shall be published by advertisement in the *Canada Gazette* and the advertisement shall give the particulars required by paragraphs 21(1)(a) and (b) or 21(2)(a) and (b), as the case may be, and shall also state an address from which a copy of the notice may be obtained; notice of intention to make records, perforated rolls or other contrivances for the reproduction of any number of works may be included in the same advertisement.

Payment of Royalties

23. –

(1) Unless some special agreement is made, royalties shall be paid in the following manner:

(*a*) after the person making the contrivances has given the prescribed notice of his intention to sell or to make the contrivances, the owner of the copyright shall in writing sent by registered mail, intimate to that person in Form 8 of the schedule some convenient address at which payments of royalties may be made and his willingness to accept payment of such royalties in quarterly payments on the last days of January, April, July and October in each year, each such payment to include royalties on all contrivances sold during the preceding three calendar months;

(b) if, after the expiration of 10 days from the date of the prescribed notice of the intention of the person making the contrivances to sell or to make contrivances, the owner of the copyright has not notified the person making the contrivances of an address where the royalties may be paid and of his willingness to accept payment of such royalties in quarterly instalments in the manner prescribed in paragraph (*a*), the person making the contrivances may effect payment by depositing in any chartered bank of Canada to the credit of the Receiver General, royalties in respect of all contrivances sold by him; and

(c) where royalties are payable in quarterly payments, the person making the contrivances shall at the time of making each payment submit to the owner of the copyright a statement

(i) setting out the total number of contrivances manufactured and sold during the quarterly period in question, and the total amount of royalties due to the owner therefor, and

(ii) certified as correct by a chartered accountant carrying on business as such in Canada.

(2) Every person proposing to manufacture contrivances under the provisions of section 19 of the Act and this section shall file with the Commissioner a bond of a recognized guarantee company of Canada,

approved by the Commissioner, in the penal sum of \$5,000 payable to Her Majesty for the benefit of the owners of copyright, to secure the payment of all royalties.

(3) For the purposes of this section "the date of the prescribed notice" means

(*a*) in cases where the notice is required to be sent by registered mail or telegraph, the date when the notice would in ordinary course of post or telegraph be delivered; and

(b) in cases where the notice is required to be advertised in the *Canada Gazette*, the date of such advertisement.

24. The inquiries referred to in subsection 19(7) of the Act shall be directed to the owner of the copyright by name or, if his name is not known and cannot with reasonable diligence be ascertained, in general terms to "the owner of the copyright" of the work in respect of which the inquiries are made, and shall contain

(*a*) a statement of the name of the work in respect of which the inquiries are made and of the author, if known, and, if necessary, a description sufficient to identify the work;

(b) a statement of the name, address and occupation of the person making the inquiries;

(c) an allegation that a contrivance has previously been made by means of which the work may be mechanically performed, with the trade name, if known, and a description of such contrivance; and
(d) an inquiry as to whether the contrivance so described was made with the consent or

acquiescence of the owner of the copyright.

25. The inquiries referred to in subsection 19(7) of the Act,

(*a*) if an address of the owner of the copyright is known or can with reasonable diligence be ascertained, shall be sent by registered mail to such address; or

(b) if such address is not known and cannot with reasonable diligence be ascertained, shall be published by advertisement in the *Canada Gazette*.

26. The prescribed time for reply to the inquiries referred to in subsection 19(7) of the Act shall be,

(*a*) in cases where the inquiries are required to be sent by registered mail, 14 days after the date when the inquiries would by ordinary course of post be delivered; and

(b) in cases where the inquiries are required to be advertised in the *Canada Gazette*, 14 days after the date of such advertisement.

PART V GENERAL

27. An application for registration of copyright in a published work shall be in Form 9 of the schedule.

28. An application for registration of copyright in an unpublished work shall be in Form 10 of the schedule.

29. Anything done under these Rules may be done in writing, and it is not necessary for an applicant or the agent of an applicant to attend personally at the Office unless specially called for by the Commissioner or by these Rules. SOR/94-32, s. 2.

30. The Commissioner is not responsible for any allegations in, or the validity of, any document or instrument furnished to him.

31. Correspondence with the Commissioner shall be conducted only by an applicant or his agent.

32. All documents submitted in connection with an application for registration of a copyright or for a licence must be legibly and neatly written, printed or typewritten on paper that is eight inches wide and 13 inches long with a margin of one inch on the left-hand side.

33. An application for registration or for a licence shall be signed

- (*a*) by the applicant or his duly authorized agent in the case of an individual;
- (b) by a partner in the case of a firm; or
- (c) by a director, secretary or other principal officer in the case of a corporation.

34. –

(1) All communications intended for the Office shall be addressed to the Commissioner.

(2) Correspondence addressed to the Commissioner shall be considered to be received by the Office on the day that it is delivered to one of the following establishments, where the delivery is made during the ordinary business hours of that establishment:

(a) the Office; or

(*b*) an establishment designated by the Commissioner as an establishment to which correspondence addressed to the Commissioner may be delivered. SOR/94-32, s. 3.

35. –

- (1) All fees shall be payable to the Receiver General.
- (2) All cheques sent to the Commissioner must be certified.
- (3) Money sent by mail shall be under registered cover and is sent at the risk of the sender.

SOR/94-32, s. 4.

36. The Commissioner may acknowledge inquiries but is not required to furnish applicants or others with any information that would require a search of the public records of the Office, or with any advice on matters concerning the interpretation of the Act or these Rules or concerning any other question of law.

SOR/94-32, s. 5.

SCHEDULE

FORM 1

(s. 6)

APPLICATION FOR LICENCE UNDER SECTION 14 OF THE COPYRIGHT ACT

The Commissioner of Patents,

The Copyright Office,

Ottawa, Canada.

(2) The said book has been published and Copyright is subsisting therein.

(3) The name and address of the owner of the Copyright are as

follows:....

(4) The owner of the Copyright has failed and fails to print the said book or cause the same to be printed in Canada, and to supply by means of copies so printed, the reasonable demand of the Canadian market for such book.

(5) The present retail selling price of the said book in Canada is \$...... per copy.

(6) The proposed retail selling price of the said book in Canada is \$..... per copy.

(7) I offer as royalty per cent of such proposed retail selling price on the edition stated herein and a like royalty on any further copies printed under any licence which may be granted on this application.

(8) I herewith forward the sum of (\$...... being 10 per cent of the proposed retail selling price of one thousand copies of the said book), or (\$100), (whichever sum is greater) and also the fee of \$10, as provided by the *Copyright Rules*.

Signed at this day of, 19.....

Signature

FORM 2

(s. 7)

NOTICE TO COPYRIGHT OWNER

Dated the...... day of....., 19.....

Commissioner of Patents

To the owner of the Copyright in the book entitled "....."

FORM 3

(s. 8)

UNDERTAKING AND SECURITY UNDER SUBSECTION 14(5) OF THE COPYRIGHT ACT

Know All Men By These Presents that we,

....., as principal, and, of,

Sealed with our seals and dated this day of 19.....

Whereas the above bounden is the owner of Copyright in the book entitled "....." and has failed to print the said book, or cause the same to be printed in Canada:

Now the condition of this obligation is such that if the above bounden his executors or administrators, shall and do within two months after the day of procure the printing in Canada of an edition of not less than 1,000 copies of the said book, then this obligation shall be void, but otherwise shall be and remain in full force and virtue.

Signed, sealed and delivered,

in the presence of

DECLARATION OF JUSTIFICATION BY EACH SURETY

Province of	Ι,
County of	of
 To wit:	one of the sureties in the annexed
io wit.	bond named, do solemnly declare that:

1. I am seized and possessed to my own use of real estate in the Province of in Canada of the actual value of \$....., over and above all charges upon and incumbrances affecting the same.

FORM 4

(s. 11)

LICENCE UNDER SECTION 14 OF THE COPYRIGHT ACT

The retail selling price of the said book under this licence is \$..... per copy.

The licensee shall pay a royalty on the retail selling price of every copy of such book printed under this licence at the rate of per cent.

Dated the day of 19.....

.....

Commissioner of Patents

Acceptance of Licence

I, of the licensee above mentioned, hereby accept this licence and undertake to fulfil, in connection therewith, all the terms prescribed by the *Copyright Act* and Rules and Forms enacted thereunder.

Dated the day of 19.....

.....

Licensee

FORM 5

(ss. 14 and 15)

APPLICATION FOR LICENCE UNDER SECTION 15 OF THE COPYRIGHT ACT

The Commissioner of Patents,

The Copyright Office,

Ottawa, Canada

(2) Copyright is subsisting in the said book in Canada, and of is the owner of such Copyright.

(3) The said has refused to grant a licence to me to publish such book in serial form in Canada.

(4) On the day of I sent by registered mail to the said owner of the Copyright at his said address, a contract in duplicate, a copy of which is hereto annexed marked "A".

Signed at, 19.....

.....

DRAFT CONTRACT ANNEXED TO FORM 5

This indenture made in duplicate the day of between of the first part and of of the second part:

Whereas the party of the first part is the owner of the right to publish in serial form in Canada the book entitled "....." by

of.....;

And whereas the party of the second part is the publisher of a periodical published in Canada, and has requested the party of the first part to grant to him the party of the second part a licence to publish the said book in serial form:

Now this indenture witnesseth that in consideration of the sum of dollars of lawful money of Canada now paid by the party of the second part to the party of the first part (the receipt whereof is hereby acknowledged), the party of the first part doth hereby grant to the party of the second part the right and licence to publish the said book in serial form in Canada.

In witness whereof the parties hereto have hereunto set their hands and seals.

Signed, sealed and delivered, in the presence of

.....

FORM 6

(s. 18)

NOTICE OF APPLICATION FOR LICENCE UNDER SECTION 15 OF THE COPYRIGHT ACT

Dated the day of, 19.....

.....

Commissioner of Patents

To of owner of the Copyright in the book entitled ".....".

FORM 7

(s. 20)

LICENCE UNDER SECTION 15 OF THE COPYRIGHT ACT

FORM 8

(s. 23)

NOTICE OF ADDRESS FOR PAYMENT OF ROYALTIES UNDER SECTION 19 OF THE COPYRIGHT ACT

include royalties due in respect of contrivances sold by you during the preceding three months. I have to inform you that payment of royalties prescribed by section 19 of the *Copyright Act* in respect of (*name of work*) of which I am the owner of the copyright may be made to me at the following address and I agree to accept payment of such royalties quarterly on the last days of January, April, July, and October, each payment to

Dated the..... day of....., 19.....

Signature

To of

FORM 9

(s. 27)

APPLICATION FOR REGISTRATION OF COPYRIGHT IN A PUBLISHED WORK

of the (city, town, etc.) hereby declare that I am

the owner of the Copyright in the original (here insert: literary, dramatic, musical or artistic as the case may be) work entitled "....."

by..... of

(author's name and address)

and that the said work was first published by the issue of copies thereof to the public on the day of

19..... in the of

(city, town)

(province, state, country)

and I hereby request you to register the Copyright of the said work in my name in accordance with the provisions of the

Copyright Act.

of, 19.....

Signature

(See rule 33)

The Commissioner of Patents, The Copyright Office, Ottawa, Canada.

FORM 10

(s. 28)

APPLICATION FOR REGISTRATION OF COPYRIGHT IN AN UNPUBLISHED WORK

I,

(name)

of the (city, town) hereby declare that I am

(province, state, country)

by

the owner of the Copyright in the original (*here insert: literary, dramatic, musical or artistic, as the case may be*) work entitled "....."

of (author's name and address)

and that the said work has not been published, and I hereby request you to register the Copyright of the said work in my

name, in accordance with the provisions of the Copyright Act.

I forward herewith the fee of \$2 for the registration of the said Copyright, and the further fee of \$1 for a certificate of such registration.

Dated at, 19.....

.....

Signature (See rule 33)

The Commissioner of Patents, The Copyright Office, Ottawa, Canada.