

PREVENTION OF COPYRIGHT PIRACY ORDINANCE

Chapter 544

Long title

An Ordinance to make further provision for the prevention of copyright piracy.

[The Ordinance

(other than [sections 21](#) and [22](#)) :29 May 1998

[Sections 21](#) and [22](#) :29 August 1998 *L.N. 235 of 1998*]

(Originally 22 of 1998)

Section 1 Short title

Preliminary

- (1) This Ordinance may be cited as the Prevention of Copyright Piracy Ordinance.
- (2) (Omitted as spent)

Section 2 Interpretation

(1) In this Ordinance, unless the context otherwise requires-

“authorized officer” means a public officer authorized by the Commissioner under [section 32](#);

“Commissioner” means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise;

“court” includes a magistrate;

“licence” means a licence granted under [section 5](#);

“licensed premises”, in relation to a licensee, means any premises specified in his licence in which optical discs are authorized to be manufactured;

“licensee” means a person to whom a licence is granted, and includes any person to whom a licence is transferred in accordance with [section 8](#);

“manufacturer’s code” means a manufacturer’s code assigned to a licensee under [section 5\(2\)\(a\)](#) or [8\(3\)\(b\)](#);

“optical disc” includes-

- (a) any medium or device listed in [Schedule 1](#); and
- (b) any other medium or device on which data may be stored in digital form and read by means of a laser,

and, for greater certainty, includes any such medium or device manufactured for any purpose and whether or not any data readable by means of a laser has been stored on it;

“place” means any area on land or water and includes any building, structure or enclosure, whether moveable or not;

“register” means the register kept by the Commissioner under [section 31](#).

(2) For the purpose of this Ordinance, a person manufactures optical discs in Hong Kong if he owns, directs, manages or otherwise has control of a business in Hong Kong which includes the manufacturing of optical discs in Hong Kong.

(3) All other words and expressions used in this Ordinance and defined in the Copyright Ordinance (Cap 528) have the same meaning as in that Ordinance.

Section 3

Licence required to manufacture optical discs

Licences to manufacture optical discs

(1) No person shall manufacture optical discs in Hong Kong unless he holds a valid licence.

(2) [Subsection \(1\)](#) does not apply-

- (a) to an employee of a licensee who manufactures optical discs in the course of his employment; or
- (b) to the manufacture of optical discs for a purpose prescribed by the regulations.

Section 4

Prohibition on manufacturing at unlicensed premises

(1) No licensee shall manufacture optical discs in any place in Hong Kong other than a licensed premises.

(2) [Subsection \(1\)](#) does not apply to the manufacture of optical discs for a purpose prescribed by the regulations.

Section 5

Application for and grant of licence

(1) The Commissioner may grant a licence to any person who makes an application for a licence in accordance with this Ordinance.

(2) In granting a licence, the Commissioner-

- (a) shall assign to the licensee a manufacturers’ code;
- (b) shall impose all of the conditions as may be published by him from time to time by notice in the Gazette for the purpose of this section; and
- (c) may impose such other conditions as he thinks fit for-
 - (i) preventing the manufacture of infringing copies of copyright works;

- (ii) protecting the rights of copyright owners and other persons to whom rights are conferred under the Copyright Ordinance (Cap 528);
 - (iii) securing compliance by the licensee with any provisions of this Ordinance or the regulations;
 - (iv) securing compliance by the licensee with any conditions of the licence; and
 - (v) ensuring the effective administration of this Ordinance.
- (3) A manufacturer's code shall consist of-
- (a) one or more letters or numbers;
 - (b) a mark, sign, symbol or device; or
 - (c) any combination of letters, numbers, marks, signs, symbols or devices, as determined by the Commissioner.
- (4) A notice published under [subsection \(2\)\(b\)](#) shall not be regarded as subsidiary legislation.

Section 6 Form, duration and effect of licence

- (1) Every licence shall be in a form determined by the Commissioner and shall be valid for such period, not exceeding 3 years, as is specified in the licence.
- (2) Every licence shall authorize the person named therein to manufacture optical discs in the premises specified in the licence.
- (3) The following matters shall be endorsed on a licence-
- (a) any conditions imposed under [section 5\(2\)](#) or [8\(3\)](#);
 - (b) the manufacturer's code assigned to the licensee;
 - (c) any amendments made to the licence under [section 7](#) or to any conditions endorsed on the licence under [section 8\(3\)](#); and
 - (d) any transfer of the licence approved under [section 8](#).

Section 7 Amendment and renewal of licence

- (1) The Commissioner may amend or renew a licence upon application made by the licensee in accordance with this Ordinance.
- (2) An application to amend or renew a licence must be made during such period as the Commissioner may specify.
- (3) [Sections 5](#) and [6](#) apply, with such modifications as the circumstances require, to the amendment or renewal of a licence under this section.

Section 8 Transfer of licence

(1) A licensee may transfer his licence to another person if the Commissioner approves the transfer under [subsection \(2\)](#).

(2) The Commissioner may upon application made by a licensee in accordance with this Ordinance, showing cause to his satisfaction, approve the transfer of the licence to another person.

(3) In approving the transfer of a licence, the Commissioner may-

- (a) amend any conditions endorsed on the licence or impose any new conditions as he thinks fit, including any conditions referred to in [section 5\(2\)\(b\)](#); and
- (b) assign to the person to whom the licence is transferred a manufacturer's code in substitution for the manufacturer's code endorsed on the licence.

Section 9

Display of licence

(1) Subject to [subsection \(2\)](#), a licensee shall cause his licence to be displayed at all times in a conspicuous location at the licensed premises.

(2) If there is more than one licensed premises, the licensee shall-

- (a) cause the licence to be displayed at any of the licensed premises; and
- (b) obtain a duplicate licence from the Commissioner for each other licensed premises and cause it to be displayed at all times in a conspicuous location at that licensed premises.

Section 10

New information to be furnished

(1) A licensee shall notify the Commissioner of any change which occurs in relation to any particulars set out in-

- (a) any application made by him under this Ordinance; or
- (b) any notice previously given by him under this section.

(2) The licensee shall so notify the Commissioner not later than 30 days after the change takes effect.

(3) A notice under this section shall be given in such form and manner as the Commissioner may require.

Section 11

Refusal to grant or renew licence

(1) The Commissioner may refuse to grant a licence, or to renew a licence, if he is satisfied that-

- (a) the applicant for the licence or renewal, or a partnership or body corporate managed, owned or controlled by him, has been convicted of an offence under this Ordinance or the Copyright Ordinance (Cap 528) or under any previous law of Hong Kong relating to copyright;
- (b) an offence under this Ordinance or the Copyright Ordinance (Cap 528) or under any previous law of Hong Kong relating to copyright has been committed in connection

with any premises to which the application for the licence or renewal relates, whether or not any person has been convicted of that offence;

- (c) the applicant has furnished to the Commissioner any false or misleading information in connection with any application made, or notice given, by him under this Ordinance; or
- (d) the applicant is not, for any other reason satisfactory to the Commissioner, a fit and proper person to hold a licence.

(2) If the Commissioner refuses to grant or renew a licence, he shall notify the applicant in writing of the grounds for the refusal within 14 days after his decision.

Section 12 Revocation of licence

(1) The Commissioner may revoke a licence on any of the grounds for which he may refuse to grant or renew a licence under [section 11\(1\)](#).

(2) In addition, the Commissioner may revoke a licence if he is satisfied that the licensee-

- (a) has ceased to manufacture optical discs in Hong Kong;
- (b) has ceased to manufacture optical discs at any licensed premises; or
- (c) is in breach of, or is unable to comply with, any conditions endorsed on the licence.

(3) The Commissioner shall not revoke a licence unless he first-

- (a) notifies the licensee in writing of his intention and the grounds upon which he proposes to revoke the licence; and
- (b) permits the licensee to make representations to him in writing.

(4) Representations under [subsection \(3\)\(b\)](#) shall be made within 14 days from the date of the notification under [subsection \(3\)\(a\)](#) or within such greater period as is specified in the notice.

(5) If the Commissioner revokes a licence, he shall notify the licensee in writing of the grounds for the revocation within 14 days after his decision.

(6) For the purpose of [subsection \(1\)](#)-

- (a) any reference in [section 11\(1\)](#) to an applicant shall be construed as a reference to a licensee; and
- (b) the reference in [section 11\(1\)\(b\)](#) to the application for the licence or renewal shall be construed as a reference to the licence.

Section 13 Cancellation of licence

The Commissioner may cancel a licence upon application made by the licensee in accordance with this Ordinance.

Section 14 Appeals to Administrative Appeals Board

Any person who is aggrieved by a decision of the Commissioner made under [section 11](#) or [12](#) may appeal the decision to the Administrative Appeals Board.

Section 15

Optical discs must be marked with manufacturer's code

Marking of optical discs

(1) Every licensee shall cause each optical disc manufactured by him in Hong Kong to be marked with the manufacturer's code endorsed on his licence.

(2) [Subsection \(1\)](#) does not apply to the manufacture of optical discs for a purpose prescribed by the regulations.

(3) In this section, "marked" means to be marked in accordance with the standards specified by the Commissioner under [section 16](#).

Section 16

Marking standards

(1) The Commissioner may by notice published in the Gazette specify standards for the marking of manufacturers' codes on optical discs.

(2) Without limiting the generality of [subsection \(1\)](#), a notice published under this section may-

- (a) specify standards in relation to different classes or descriptions of optical discs;
- (b) specify standards relating to the manner in which, and the means by which, manufacturers' codes are to be marked on optical discs or on optical discs of any class or description; and
- (c) adopt or incorporate by reference standards that have been published by any body or authority, with or without modification and either as in effect on a particular date specified in the notice or as amended from time to time.

(3) A notice published under this section shall not be regarded as subsidiary legislation.

Section 17

Power of authorized officers to inspect licensed premises, etc.

Inspection and enforcement

(1) Every authorized officer shall for the purposes of this Ordinance have power to do all or any of the following things-

- (a) to enter at all reasonable times (or, if specially authorized in writing by the Commissioner, at any time) any licensed premises;
- (b) to inspect and search the licensed premises and every part thereof;
- (c) to require the production of any licence relating to the operation of the licensed premises or the business concerned, whether granted under this Ordinance or otherwise;

- (d) to require the production of any book or document relating to the business concerned, including any licence or other document relating to a person's right to manufacture optical discs;
- (e) to inspect, remove and detain for the purpose of examination for so long as the Commissioner may consider necessary and to examine and copy any such licence, book or document;
- (f) to remove and detain for the purpose of examination for so long as the Commissioner may consider necessary and to examine samples of optical discs found in the licensed premises;
- (g) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Ordinance or the Copyright Ordinance (Cap 528) or the conditions of any licence granted under this Ordinance are being, or have been, complied with; and
- (h) to exercise such other powers as may be necessary for giving effect to the provisions of this Ordinance.

(2) A licensee and the employees, servants or agents of a licensee shall furnish the means required by an authorized officer to enable him to exercise his powers or perform his duties under this section.

(3) If in pursuance of this section any authorized officer, having demanded admission into any place and declared his name and business at any entrance thereof, is not immediately admitted, he and any person acting in his aid may break into and forcibly enter the place.

Section 18

Power of authorized officers to enter and search, etc.

- (1) An authorized officer may-
- (a) subject to [section 19](#), enter and search any place; and
 - (b) stop, board and search any vessel, aircraft or vehicle (other than a ship of war, military aircraft or military vehicle),

in which he reasonably suspects that there is-

- (i) any optical disc which has been manufactured in contravention of this Ordinance; or
- (ii) any machinery, equipment or other thing which may be or may contain, or which may likely be or contain, evidence of an offence under this Ordinance.

(2) An authorized officer may, in exercising his powers under [subsection \(1\)](#), seize, remove or detain-

- (a) any optical disc which appears to him to have been, or to be likely to have been, manufactured in contravention of this Ordinance; and
- (b) any machinery, equipment or other thing which appears to him to be or to contain, or to be likely to be or to contain, evidence of an offence under this Ordinance.

(3) An authorized officer may seize, remove or detain any vessel, aircraft or vehicle (other than a ship of war, military aircraft or military vehicle) which he is empowered by this section to stop, board and search and which he reasonably suspects is being used, or to have been used, in connection with an offence under this Ordinance.

- (4) An authorized officer may-
- (a) break into and forcibly enter any place which he is empowered by this section to enter and search;
 - (b) forcibly board any vessel, aircraft or vehicle which he is empowered by this section to stop, board and search;
 - (c) remove by force any person or thing obstructing him in the exercise of any power conferred on him by this section;
 - (d) detain any person found in any place which he is empowered by this section to enter and search until such place has been searched; and
 - (e) prevent any person from approaching or boarding any vessel, aircraft or vehicle which he is empowered by this section to stop, board and search until it has been searched.

(5) Where it is not practicable to remove any machinery, equipment or other thing pursuant to [subsection \(2\)\(b\)](#), an authorized officer may seal the machinery, equipment or other thing or the place where it is kept so as to prevent its use without breaking the seal.

(6) Where a place is sealed under [subsection \(5\)](#), the period for which the place is sealed shall not exceed 14 days unless an order has been made under [subsection \(8\)](#).

(7) The Commissioner may apply to a magistrate for an order that the period under [subsection \(6\)](#) be extended or further extended for such period as specified in the application.

(8) Upon an application made under [subsection \(7\)](#), the magistrate may, if having regard to all the circumstances of the case he thinks proper so to do, make an order extending or further extending the period under [subsection \(6\)](#) for such period as he thinks fit.

Section 19

Authority to issue warrant for entry and search

(1) A magistrate may, if he is satisfied by information on oath that there are reasonable grounds for suspecting that there is in any place-

- (a) any optical disc which has been manufactured in contravention of this Ordinance; or
- (b) any machinery, equipment or other thing which may be or may contain, or which may likely be or contain, evidence of an offence under this Ordinance,
issue a warrant authorizing an authorized officer to enter and search the place.

(2) Subject to [subsection \(3\)](#), an authorized officer shall not enter and search any place under [section 18\(1\)\(a\)](#) except under the authority of a warrant issued under this section.

(3) An authorized officer may enter and search any place under [section 18\(1\)\(a\)](#) without a warrant issued under this section if the delay necessary to obtain a warrant could result in the loss or destruction of evidence or for any other reason it would not be reasonably practicable to obtain a warrant.

Section 20

Seized optical discs, etc., liable to forfeiture

(1) Any optical disc, machinery, equipment or other thing seized, removed or detained by an authorized officer under [section 18\(2\)](#) or any machinery, equipment or other thing sealed by an

authorized officer under [section 18\(5\)](#) is liable to forfeiture in accordance with this section and whether or not any person has been charged with an offence under this Ordinance.

(2) [Sections 131](#) and [133](#) of the Copyright Ordinance (Cap 528) shall apply in respect of any optical disc, machinery, equipment or other thing liable to forfeiture under [subsection \(1\)](#), with such modifications as the circumstances require.

(3) For the purpose of applying [sections 131](#) and [133](#) of the Copyright Ordinance (Cap 528), any reference in those sections-

- (a) to an offence under [section 118](#) or [120](#) of that Ordinance shall be construed as a reference to an offence under this Ordinance;
- (b) to an article, vessel, aircraft, vehicle or thing seized or detained by an authorized officer under [section 122](#) of that Ordinance shall be construed as a reference to any optical disc, machinery, equipment or other thing seized, removed or detained by an authorized officer under [section 18\(2\)](#) or any machinery, equipment or other thing sealed by an authorized officer under [section 18\(5\)](#) of this Ordinance; or
- (c) to [section 132](#) of that Ordinance shall be construed as a reference to [section 27](#) of this Ordinance.

Section 21 Manufacturing optical discs without licence, etc.

Offences and penalties

(1) Any person who contravenes [section 3](#) commits an offence and is liable-

- (a) on a first conviction, to a fine of \$500000 and to imprisonment for 2 years; and
- (b) on a second or subsequent conviction, to a fine of \$1000000 and to imprisonment for 4 years.

(2) Any person who contravenes [section 4](#) or [15](#) commits an offence and is liable-

- (a) on a first conviction, to a fine at level 6 and to imprisonment for 2 years; and
- (b) on a second or subsequent conviction, to a fine of \$200000 and to imprisonment for 4 years.

(3) Any licensee who manufactures optical discs in contravention of any conditions endorsed on his licence commits an offence and is liable-

- (a) on a first conviction, to a fine at level 2 and to imprisonment for 6 months; and
- (b) on a second or subsequent conviction, to a fine at level 4 and to imprisonment for 1 year.

(4) Any person who contravenes [section 9](#) or [10](#) commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.

(5) In any proceedings for an offence under [subsection \(3\)](#), it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

Section 22

Applying false manufacturer's code, etc.

- (1) Any person who-
 - (a) forges a manufacturer's code;
 - (b) falsely applies to an optical disc a manufacturer's code or any mark so resembling a manufacturer's code as to be calculated to deceive;
 - (c) makes any die, block, machine or other instrument for the purpose of forging, or of being used for forging, a manufacturer's code;
 - (d) disposes of or has in his possession any die, block, machine or other instrument for the purpose of forging a manufacturer's code; or
 - (e) causes to be done anything referred to in [paragraph \(a\) \(b\), \(c\) or \(d\)](#), commits an offence.
- (2) Any person who commits an offence under [subsection \(1\)](#) is liable-
 - (a) on a first conviction, to a fine of \$500000 and to imprisonment for 2 years; and
 - (b) on a second or subsequent conviction, to a fine of \$1000000 and to imprisonment for 4 years.

(3) In any proceedings for an offence under [subsection \(1\)](#) it shall be a defence for the person charged to prove that he acted without intent to deceive or defraud.

Section 23

False and misleading statements

Any person who makes any false or misleading statement or furnishes any false or misleading information in connection with-

- (a) any application made, or notice given, by him under this Ordinance; or
- (b) any request by the Commissioner or an authorized officer for information under this Ordinance,

commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.

Section 24

Obstruction of authorized officers

- (1) Without prejudice to any other Ordinance, any person who-
 - (a) willfully obstructs an authorized officer in the exercise of his powers or the performance of his duties under this Ordinance;
 - (b) willfully fails to comply with any requirement properly made to him by any such authorized officer;
 - (c) without reasonable excuse, fails to give such authorized officer any other assistance which he may reasonably require to be given for the purpose of exercising his powers or performing his duties under this Ordinance; or

- (d) breaks or interferes with a seal affixed by an authorized officer under [section 18\(5\)](#), commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

(2) Any person who, when required to give information to the Commissioner or an authorized officer in the exercise of his powers or the performance of his duties under this Ordinance, knowingly gives false or misleading information commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

(3) Nothing in this section requires any person to give any information which may incriminate him.

(4) No person commits an offence under [subsection \(1\)\(d\)](#) if he breaks or interferes with a seal affixed by an authorized officer under [section 18\(5\)](#)-

- (a) in the bona fide belief that it is necessary immediately to break or interfere with the seal in order to prevent injury being suffered by any person or damage being incurred to any premises, place, machinery, equipment or other thing; or
- (b) in the exercise of his duties as a public officer.

Section 25

Offences related to disclosure of information

(1) Subject to [subsection \(2\)](#), any person who discloses to any other person any information obtained by him in pursuance of this Ordinance commits an offence unless the disclosure was made-

- (a) for the purpose of the performance by him or any other person of duties or functions under this Ordinance; or
- (b) under the direction or order of a court.

(2) A person does not commit an offence under [subsection \(1\)](#) by disclosing information pursuant to [section 36](#) or [37](#).

(3) Any person who commits an offence under [subsection \(1\)](#) is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

Section 26

Liability of persons other than principal offender

(1) Where a body corporate commits an offence under this Ordinance in respect of any act which is proved to have been committed with the consent or connivance of, or to be attributable to any act on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he, as well as the body corporate, commits the offence.

(2) Where the affairs of a body corporate are managed by its members, [subsection \(1\)](#) applies in relation to the acts of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Ordinance committed by a partner in a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any act on the part of, any other partner of the partnership or any person concerned in the management of the

partnership, that other partner or the person concerned in the management of the partnership commits the like offence.

Section 27

Disposal of optical discs, etc., where a person is charged

Without prejudice to [section 20](#), where a person is charged with an offence under this Ordinance, the court may, if it is satisfied that-

- (a) any optical disc seized, removed or detained by an authorized officer under [section 18\(2\)](#) in connection with the offence has been manufactured in contravention of this Ordinance; or
- (b) any machinery, equipment or other thing so seized, removed or detained under [section 18\(2\)](#) or any machinery, equipment or other thing sealed by an authorized officer under [section 18\(5\)](#) has been used in connection with any offence under this Ordinance,

order that the optical disc, machinery, equipment or thing be-

- (i) forfeited to the Government; or
- (ii) disposed of in such other way as the court may think fit, whether or not the person charged is convicted of the offence with which he was charged.

Section 28

Protection of informers

(1) Save where, in the opinion of the court, justice so requires, the name or identity of any informer and the information given by such informer shall not be disclosed in any proceedings for an offence under this Ordinance.

(2) The court may make any order and adopt any procedure necessary to prevent any such disclosure.

Section 29

Time limit for prosecutions

No prosecution for an offence under this Ordinance shall be commenced after the expiration of 3 years from the date of commission of the offence or 1 year from the date of discovery of the offence by the prosecutor, whichever is the earlier.

Section 30

Form of applications, etc.

Miscellaneous

(1) Every application under this Ordinance shall be made to the Commissioner in such form and manner as he may require.

(2) Every application made under this Ordinance must be accompanied by-

- (a) any fee applicable under [Schedule 2](#); and
- (b) a statement in writing containing such particulars as the Commissioner may require.

(3) Any application made under this Ordinance by a body corporate may be signed by any director, manager, secretary or other similar officer of the body corporate who is authorized in that behalf by the body corporate, and the Commissioner may require such proof of the authorization as he considers necessary.

(4) Any application made under this Ordinance by a partnership must be signed by at least one of its partners, and the Commissioner may require such proof of the partnership as he considers necessary.

Section 31

Register

(1) The Commissioner shall establish and maintain a register in such form and containing such information respecting licences and manufacturers' codes as he thinks fit.

(2) The Commissioner shall make the register available to public inspection subject to such conditions as he thinks fit.

Section 32

Appointment of authorized officers

The Commissioner may authorize in writing any public officer to exercise any of the powers and perform any of the duties conferred or imposed on an authorized officer by this Ordinance.

Section 33

Protection of the Commissioner, authorized officers and persons assisting them

(1) The Commissioner and authorized officers are not liable for any loss or damage suffered by any person as a result of any action taken or omitted to be taken by them in good faith in the exercise of their powers or the performance of their duties under this Ordinance.

(2) Any person may act in aid of an authorized officer who appears to be lawfully engaged in the exercise of any power or the performance of any duty under this Ordinance upon being requested by the authorized officer to do so and without being bound to inquire whether or not the authorized officer is acting lawfully or within the scope of his powers or duties.

(3) A person acting in good faith in aid of an authorized officer under [subsection \(2\)](#) is not liable for any loss or damage suffered by any person as a result of any action taken or omitted to be taken by him while so acting.

(4) Nothing in this section shall affect any civil liability of the Government for the wrongful acts of its servants.

Section 34

Compensation for seizure, etc.

(1) Where any optical disc, machinery, equipment or other thing is seized, removed or detained by an authorized officer under [section 18\(2\)](#) or any machinery, equipment or other thing is sealed by an authorized officer under [section 18\(5\)](#), the Government shall, subject to this section, be liable to compensate the owner thereof for any loss suffered by him by reason of the seizure, removal, detention or sealing thereof or by reason that the optical disc, machinery, equipment or thing is lost or damaged during the period when it is detained or sealed; but the owner shall not be entitled to compensation for any such loss if-

- (a) the optical disc, machinery, equipment or thing is forfeited under [section 20](#);
- (b) the owner has been convicted of an offence under this Ordinance or the Copyright Ordinance (Cap 528) committed in relation to the optical disc, machinery, equipment or thing; or
- (c) an order has been made in respect of the optical disc, machinery, equipment or thing under [section 27](#).

(2) In any proceedings against the Government in respect of a claim for compensation on any of the grounds referred to in [subsection \(1\)](#), the amount of the compensation recoverable shall be such amount as is just and equitable in all the circumstances of the case, including the conduct and comparative blameworthiness of-

- (a) the owner of the optical disc, machinery, equipment or thing;
- (b) the person in charge or control of the optical disc, machinery, equipment or thing at the time it was seized, removed or sealed;
- (c) the agents of the person specified in [paragraphs \(a\)](#) and [\(b\)](#); and
- (d) authorized officers, public officers and other persons concerned.

(3) No proceedings shall be maintainable in respect of any claim for compensation on any of the grounds referred to in [subsection \(1\)](#) unless the proceedings are commenced-

- (a) in the case of a claim for compensation in respect of any optical disc, machinery, equipment or thing delivered to its owner by order of a court or magistrate or by any person having authority to deliver the optical disc, machinery, equipment or thing to him, not later than 6 months after the delivery thereof;
- (b) in the case of a claim for compensation on the ground that any optical disc, machinery, equipment or thing was lost during the period when it was detained or sealed, not later than 6 months after-
 - (i) the discovery by the owner of the existence of such ground; or
 - (ii) the date on which the owner could, by the exercise of reasonable diligence, have discovered the existence of such ground,

whichever is the earlier.

Section 35 Aids in proof

(1) A certificate purporting to be certified under the hand of the Commissioner and stating whether-

- (a) a person named in the certificate has or has not been granted a licence under this Ordinance;

- (b) a licence granted under this Ordinance to a person named in the certificate has or has not expired or has or has not been revoked or cancelled; or
- (c) a manufacture's code specified or described in the certificate has or has not been assigned under [section 5\(2\)\(a\)](#) or [8\(3\)\(b\)](#) to a person named in the certificate,

shall be evidence of the matters stated therein as at the date of the certificate and shall be received in evidence in any proceedings under this Ordinance without further proof.

(2) A copy of any licence which purports to be certified under the hand of the Commissioner shall be evidence of the licence and of the matters stated therein as at the date of the copy and shall be received in evidence in any proceedings under this Ordinance without further proof.

Section 36

Disclosure of information, inspection, release of samples, etc.

[Sections 126](#) and [128](#) of the Copyright Ordinance (Cap 528) shall apply in respect of any optical disc, machinery, equipment or other thing seized, removed or detained by an authorized officer under [section 18\(2\)](#) or any machinery, equipment or other thing sealed by an authorized officer under [section 18\(5\)](#) of this Ordinance, with such modifications as the circumstances require.

Section 37

Multilateral co-operation

The Commissioner may, for the purpose of promoting multilateral co-operation in the protection of intellectual property rights, disclose information obtained in pursuance of this Ordinance to the customs authorities or other authorities responsible for the enforcement of intellectual property rights of-

- (a) any country, territory or area which is, at the relevant time, a member of the World Trade Organization; or
- (b) such other country, territory or area as the Commissioner thinks fit.

Section 38

Regulations

The Secretary for Trade and Industry may make regulations-

- (a) prescribing anything required or permitted to be prescribed under this Ordinance; and
- (b) for the better carrying into effect of the provisions of this Ordinance in relation to any matter.

Section 39

Amendment of Schedules

The Secretary for Trade and Industry may by order amend [Schedule 1](#) or [2](#).

Section 40

Saving for other enactment's

The provisions of this Ordinance are in addition to and not in derogation of the provisions of-

- (a) the Copyright Ordinance (Cap 528); or
- (b) any other Ordinance relating to the manufacture of optical discs.

Section 41
(Omitted as spent)

(Omitted as spent)

Section 42
(Omitted as spent)

(Omitted as spent)

Section 43
(Omitted as spent)

(Omitted as spent)

Section 44
(Omitted as spent)

(Omitted as spent)

Section 45
(Omitted as spent)

(Omitted as spent)

Section 46
(Omitted as spent)

(Omitted as spent)

Schedule 1
OPTICAL DISCS

[sections 2 & 39]

1. CD (compact disc).
2. CD-ROM (compact disc-read only memory).
3. CD-R (compact disc-recordable).
4. CD-RW (compact disc-rewritable).



5. CD-W (compact disc-writable).
6. DVD (digital video disc).
7. DVD-ROM (digital video disc-read only memory).
8. LD (laser disc).
9. MD (mini-disc).
10. VCD (video compact disc).

Schedule 2 FEES

[sections 30 & 39]

Item	Matter or proceeding	Amount
		\$
1.	Application for licence	5500
2.	Application for renewal of licence	5500
3.	Application for transfer of licence	5500