

Statutory Instrument : 256 of 20006

Copyright and Neighbouring Rights Regulations, 2006

ARRANGEMENT OF SECTIONS

SI 256/2006

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SCHEDULES

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IT is hereby notified that the Minister of Justice, Legal and Parliamentary Affairs has, in terms of section 135 of the Copyright and Neighbouring Rights Act [*Chapter 26:05*] made the following regulations:—

1. Title

These regulations may be cited as the Copyright and Neighbouring Rights Regulations, 2006

2. Interpretation

In these regulations—

“form” means a form prescribed in the First or Second Schedule or any form substantially in accordance with a form so prescribed.

3. Application for a copyright and neighbouring rights

(1) An application to the Copyright Office for the registration of a copyright shall be made in Form CNR 1 and shall be typewritten, lithographed or printed in the official language.

(2) Except as otherwise specified, an applicant shall use a white paper of the international size A4, leaving a clear margin of at least 40 mm on the left-hand side.

(3) An applicant or any person who is required to complete any forms in terms of these regulations shall state thereon all particulars specified on such forms and shall also give such information as may be required.

4. Address for service

Any person who applies to become a registered owner of a copyright shall furnish the Registrar with an address for service in Zimbabwe.

5. Method of service

Where any notice, application or other document is required to be served on any person in terms of these regulations, such service may be effected by delivery of a copy thereof—

- (a) at the address for service furnished to the Registrar in terms of section 4;
- (b) to such person personally or to his or her duly authorised agent; or

- (c) at the residence or place of business or employment of such person or to some responsible person residing or employed thereat.

6. Decision of the Registrar

(1) The decision of the Registrar shall be given in writing and shall include a statement of the reasons of the Registrar in reaching a particular decision.

(2) The Registrar shall send to every party to the proceedings a copy of his or her decision and shall cause a copy to be made available at Registrar's office.

7. Application for entry of assignment and transmission

(1) An application for the registration in the register of an assignment or transmission in terms of Part IV of the Act, shall be made in form CNR 2 and shall be accompanied by an application fee prescribed in the Second Schedule.

(2) Subject to subsection (4), an application in terms of subsection (1) shall—

- (a) contain the name, trade or business and the description of the person claiming to be entitled to the copyright work, and
- (b) state whether or not the assignment is limited to—
 - (i) some of the assignor's rights, or
 - (ii) a part of the term of copyright, and
 - (iii) a specified country or geographical area

(3) An application in terms of subsection (1) shall be accompanied by a certified copy of the instrument, if any, under which the title is claimed.

(4) Where, in the case of an application made in terms of subsection (1), the applicant does not claim under any document or instrument which can prove his or her entitlement to the copyright work, he or she shall, unless the Registrar otherwise directs furnish a statement of case with his or her application, setting forth the full particulars of facts upon which his or her claim to ownership of the work is based and showing that the work has been assigned or transmitted to him or her.

(5) If the Registrar so requires, the statement referred to in subsection (4) shall be verified by way of an affidavit in form CNR 2.

8. Entry in register

(1) When the Registrar is satisfied as to the title of the person claiming to be registered, he or she shall cause the person to be registered as the owner of the copyright work in respect of the relevant class and shall enter in the Register—

- (a) the name, trade or business address and description of the owner; and
- (b) particulars of the assignment or transmission; and
- (c) statement showing the limitation, if any, to the scope of the assignment; and
- (d) the date of the publication or the date at which copyright protection begins.

(2) Where, subject to section 14, different persons become registered separately under the same official number as subsequent owners of the rights, each of the resulting separate registration shall be deemed to be a separate registration for the purpose of the Act.

9. Notification

The Registrar shall notify in writing the assignee of the recording of the assignment in the register.

10. Substitution of an applicant

Where the Registrar is satisfied that there is good reason for substitution of an applicant in respect of a copyright work, he or she shall approve the substitution subject to such conditions as he or she thinks fit and he or she shall notify the applicant accordingly.

11. Application for registration of a licence

(1) An application for registration of a licence in terms of section 49 of the Act shall be made in form CNR 3 and shall be accompanied by a fee prescribed in the Second Schedule.

(2) An application in terms of subsection (1) shall—

- (a) have the name, address and nationality of the licensee, and
- (b) have full particulars of instrument, if any, under which the interest is claimed, and
- (c) be accompanied by an affidavit made by the owner, stating the particulars of the relationship between the owner and the licensee including particulars whether the licence is a general licence or a specific one or whether it is granted for a limited period or not, or whether the licence is exclusive or non-exclusive.

12. Notification of registration of licence

The Registrar shall notify in writing of the registration of a licence to the owner and the owner shall notify other licensees whose names appear in the register in respect of the same work.

13. Licensing of reserved works of folklore

- (1) An application for the registration of a licence on reserved works of folklore shall be made in form CNR 4.
- (2) An application in terms of subsection (1) shall—
 - (a) contain the name, address and nationality of the licensee, and
 - (b) be accompanied by an instrument under which the licence is claimed; and
 - (c) be accompanied by any other document that the Registrar may require.

14. Collecting societies

(1) An application for the registration of a collecting society other than the Copyright and Neighbouring Rights Collecting Society of Zimbabwe shall be made in form CNR 5 and be accompanied by a fee prescribed in the Second Schedule.

- (2) An application in terms of subsection (1) shall contain the following information—
 - (a) name and business address of the society; and
 - (b) information as to the legal status of the society; and
 - (c) the class or classes of works that the society owns the copyright or whose copyright the society represents or intends to represent, the repertoire the society represent in Zimbabwe; and
 - (d) the memorandum and articles of association of the company, and
 - (e) a schedule containing the names, addresses, nationalities and qualifications of each of the management committee members; and
 - (f) a statement of financial position of the society as prescribed in Form CNR 6; and
 - (g) a declaration by the management committee of the society's ability to ensuring the enforcement of the rights of the owners of the copyright, and
 - (h) a schedule of names and addresses of copyright owners that the society has running contracts, in the dates when those contracts expire; and
 - (i) the constitution of the society.

15. Restoration of the society on the register

(1) A society which has been removed from the Register of the collecting societies may, within a period of one year from the date of removal, apply to the Registrar in form CNR 7 for its restoration on the Register and shall pay a fee as prescribed in the Second Schedule.

- (2) An application in terms of subsection (1) shall be accompanied by—
 - (a) an affidavit giving reasons for the society's non-compliance with these regulations or the Act which resulted in its removal from the Register.
 - (b) any other document the Registrar may require.

16. Fees

No document shall be considered to have been lodged unless the fees prescribed in the Second Schedule, as amended from time to time by the Minister, have been paid.

17. Designated countries

The following shall be designated countries—

- (a) any member of the Berne Convention for the Protection of Copyright Works;
- (b) any member of the Agreement on Trade Related Aspect of Intellectual Property (TRIPS Agreement).

FIRST SCHEDULE (Sections 3, 7, 10, 11, 13, 14)

FORMS
PART A

APPLICATION FOR A COPYRIGHT AND NEIGHBOURING RIGHTS

<p>CNR FORM 1 Section-46 of Act Section 7(5) of Regulations</p> <p>AFFIDAVIT</p> <p>TO: Registrar of Copyright & Neighbouring Rights HARARE</p>	<p>FOR OFFICIAL USE</p> <p>Received on</p>
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1. IN THE MATTER OF:

Reg/Application No.: Filing date

Title of work: Reg. date

Category of work:

2. I, in my capacity as
of
do hereby make oath and aver as follows:

.....
.....
.....
.....

Signed and Sworn to before me at this day of 20.....

.....
Signature of Deponent
Justice of the Peace/Commissioner of Oaths/
Notary Public.

PART B

APPLICATION FOR ASSIGNMENT AND TRANSMISSION

CNR FORM 2 Section(s) 46 of Act Section(s) 7(1) of Regulations APPLICATION FOR REGISTRATION OF SUBSEQUENT OWNER TO: Registrar of Copyright and Neighbouring Rights HARARE	FOR OFFICIAL USE Received on: APPLICANT'S/AGENTS REF:.....
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1. IN THE MATTER OF APPLICATION FOR COPYRIGHT

Registration No: Filing date:
Title of work: Registration date:
Category of work:

2. PRESENT ON RECORD (ASSIGNOR)

Name:
Address:

3.(a) APPLICATION

The owner(s), below—identified, hereby applies(y), for the entry in the register of their name in respect of the above-mentioned copyright as from..... being the date of aquisition ownership.

(b) I/We are entitled to the Copyright by virtue of—

- the original or a certified copy of the assignment, signed by or on behalf of the contracting parties
- other documents evidencing the change of ownership (specify)
- other (specify)

4. NEW OWNERS (ASSIGNEE)

Name: Nationality:
Address:
Country of Residence of Principal place of business:.....

5. Signatures..... Date:

Assignor(s)/Agent for assignor(s)

Assignee(s)/Agent for assignee(s):..... Date:

Address for service (assignee):

PART C

APPLICATION FOR REGISTRATION OF A LICENCE

CNR FORM 3 Section(s) 49 of Act Section(s) 11 of Regulations APPLICATION FOR REGISTRATION OF A LICENCE IN TERMS OF SECTION 49 OF THE ACT TO: Registrar of Copyright and Neighbouring Rights HARARE	FOR OFFICIAL USE Received on: Licensee's/Agent ref:
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1. In the matter of application for registration of a licence in terms of section 49 of the Act

Registration No: Filing date:

Title of work: Registration date:

Category of work:

2. Owners/Licensee Name:

Address:

3. Licensee's Name: Nationality:

Address:

Domicile/Principal place of business:

4. APPLICATION

(a) The above-identified owners/licensor hereby joins in application with the licensee so that the licence may be registered in respect of the above-identified copyright subject to the following conditions or restrictions.

(b) The proposed term of licence ends onday of20...../is without limit of period.

(c) The licence will/will not be on exclusive licence.

5. THUS DONE AND SIGNED AT.....thisday of20.....

Address for service:.....

Applicant(s)/Agent for applicant(s)

PART D

APPLICATION FOR REGISTRATION OF A LICENCE OF RESERVED
WORKS OF FOLKLORE

<p>CNR FORM 4 Section(s)-85 of Act Section(s) 13 of Regulations</p> <p>APPLICATION FOR REGISTRATION OF A LICENCE IN TERMS OF SECTION 85 OF THE ACT</p> <p>TO: Registrar of Copyright and Neighbouring Rights HARARE</p>	<p>FOR OFFICIAL USE</p> <p>Received on:</p> <p>Licensee's/Agent ref:</p>
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1. In the matter of application for registration of a licence in terms of section 85 of the Act

Registration No:..... Filing date:

Title of work: Registration date:

Category of work:

2. Owners/Licensee name:

Address:

3. Licensee's name: Nationality:

Address:

Domicile/Principal place of business:

4. APPLICATION

(a) The licensee(s), hereby applies(y) for the registration of the licence in respect of the above-identified reserved mark(s) of the folklore subject to the following condition(s).

(b) I/We are entitled to the reserved work of folklore by virtue of:

the accompanying licence.

Any other document specify.

5. THUS DONE AND SIGNED AT.....thisday of20.....

Address for service:.....

Applicant(s)/Agent for applicant(s)

PART E

APPLICATION FOR REGISTRATION OF A COLLECTING SOCIETY OTHER THAN COPYRIGHT AND NEIGHBOURING RIGHTS COLLECTING SOCIETY OF ZIMBABWE

CNR FORM 5 Section 92 of the Act Section 14 of Regulations	REGISTRATION No. DATE STAMP
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APPLICATION FOR REGISTRATION OF A COLLECTING SOCIETY OTHER THAN COPYRIGHTS AND NEIGHBOURING RIGHTS COLLECTING SOCIETY OF ZIMBABWE

TO: Registrar of Copyright and Neighbouring Rights

1. Name of Collecting Society:

2. Legal status:

3. Formation/Incorporation date:

4. Business address:

5. Classes of works owned or represented by Collecting Society (a)..... (b).....
(c)..... (d).....

6. Rapatoire the Society represents (Rapatoire?) in Zimbabwe (a)..... (b).....
(c)..... (d).....

Attached hereto are: (Tick the appropriate)

- Memorandum and articles of association of the company
- Statement of financial position of the society
- Schedule of names and addresses of copyright owners that the society has running contracts and dates of expiry therefor
- A schedule containing names, addresses, nationalities and qualifications of management committee members
- Declaration by the management committee of the society's ability to ensure the enforcement of the rights of the owners of copyright
- Constitution of the society

Dated this day of 20.....

.....
Applicant/Agent for applicant

Address for service:.....
.....

PART F

FINANCIAL STATEMENT OF A COLLECTING SOCIETY

CNR FORM 6 Section.....of the Act Section 14(3) of Regulations	REGISTRATION No. DATE STAMP
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FINANCIAL STATEMENT OF A COLLECTING SOCIETY

TO: Registrar of Copyright and Neighbouring Rights

1. Name of Collecting Society:

2. Business address:

3. Classes of works owned or represented by Collecting Society

(a).....	(b).....
(c).....	(d).....

4. Rapatoire the Society represents (Rapatoire?) in Zimbabwe

(a).....	(b).....
(c).....	(d).....

5. Financial Statement of the Collecting Society for the year end:

Attached hereto are: (Tick the appropriate)

- * Audited financial statements for the Collecting Society
- A Schedule containing names, addresses, nationalities and qualifications of management committee members
- Schedule of names and addresses of copyright owners that the Society has running contracts and dates of expiry therefor
- ** Memorandum and articles of association of the company and or constitution of the Collecting Society

Dated thisday of20.....

Applicant/Agent for applicant

Address for service:.....

* Financial statements should include, *inter alia*, statement of movements in fiduciary funds, ballance sheet, statement of income, notes and audit report.

**Lodge if there are any amendments to original documents.

PART G

FINANCIAL STATEMENT OF A COLLECTING SOCIETY

CNR FORM 7

Section.....of the Act

Section 15 of Regulations

REGISTRATION NO.

DATE STAMP

APPLICATION FOR RESTORATION OF THE REGISTER FOR A COLLECTING SOCIETY

TO: Registrar of Copyright and Neighbouring Rights

1. Name of Collecting Society:

2. Legal status:

3. Business address:

4. Classes of works owned or represented by Collecting Society (a)..... (b)..... (c)..... (d).....

5. Date of removal from register

Attached hereto are: *(Tick the appropriate)*

Other documents (please specify):

Dated thisday of:20.....

.....
Applicant/Agent for applicant

Address for service:.....

SECOND SCHEDULE (Section 16)

<i>Title</i>	FEES	
	<i>US</i>	<i>ZW</i>
	\$	\$
Application for registration of a subsequent owner	200	5 000 000
Application for registration of a licence in terms of section 49 of the Act	200	5 000 000
Application for registration of a licence in terms of section 85 of the Act	200	5 000 000
Application for registration of a Collecting Society	200	7 500 000
Return on Financial Statement of a Collecting Society	200	2 500 000
Application for restoration of a Collecting Society	200	7 500 000