
A.L. 80 tal-2010

**ATT DWAR ID-DRITTIJJIET TA' L-AWTUR
(KAP. 415)**

Regolamenti tal-2010 li jemendaw il-Kontroll tat-Twaqqif u l-Operazzjoni tas-Socjetajiet għall-Amministrazzjoni Kollettiva tad-Drittijiet tal-Awtur

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 59 tal-Att dwar id-Drittijiet ta' l-Awtur, il-Ministru tal-Finanzi, l-Ekonomija u Investiment, għamel dawn ir-regolamenti li ġejjin:-

1. (1) It-titolu ta' dawn ir-regolamenti huwa Regolamenti tal-2010 li jemendaw il-Kontroll tat-Twaqqif u l-Operazzjoni tas-Socjetajiet għall-Amministrazzjoni Kollettiva tad-Drittijiet tal-Awtur u għandhom jinqraw u jifthiemu haġa waħda mar-Regolamenti dwar il-Kontroll tat-Twaqqif u l-Operazzjoni tas-Socjetajiet għall-Amministrazzjoni Kollettiva tad-Drittijiet ta' l-Awtur, aktar 'il quddiem imsejha bhala "ir-regolamenti prinċipali".

Titolu u dhal fis-sehh.

L.S. 415.01

(2) Dawn ir-regolamenti għandhom jitqiesu li daħlu fis-sehh fl-1 ta' Jannar, 2010.

2. Ir-Regolament 4 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

Jemenda ir-regolament 4 tar-regolamenti prinċipali.

(a) fis-subregolament (2) tiegħu, il-kliem "magħmula lill-Bord għandha tinkludi:" għandhom jiġu sostitwiti bil-kliem ", li tista' ukoll tkun magħmula lill-Bord b'mezzi elettronici, għandha tinkludi:"; u

(b) fis-subregolament (2) tiegħu, minnufih wara l-paragrafu (e), għandhom jidhlu dawn il-paragrafi godda li ġejjin:

"(f) id-dettalji ta' kuntatt, inkluż indirizz postali, numru tal-fax jew indirizz elettroniku, numru tat-telefon u l-indirizz legali jekk dan mhuwiex l-istess bħal l-indirizz postali, għal finijiet ta' riċeviment ta' ilmenti jew talbiet ta' informazzjoni; u

(g) il-miżata preskritta għat-talba għall-approvazzjoni ta' *collecting society*".

Jemenda ir-regolament 5 tar-regolamenti prinċipali.

3. Ir-Regolament 5 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

(a) minflok is-subregolament (1) tiegħu, għandu jidhol dan li ġej:

"(1) Kemm jista' jkun malajr wara li jirċievi t-talba għall-approvazzjoni ta' *collecting society*, il-Bord għandu:

(a) javża lill-applikant li rċieva t-talba u jindika perjodu ta' żmien raġonevoli għall-ipproċessar tal-applikazzjoni:

Iżda dak il-perjodu għandu japplika jekk id-dokumentazzjoni kollha meħtieġa tkun ġiet preżentata u l-ebda oġġezzjoni bil-miktub ma tkun riċevuta wara l-publikazzjoni tat-talba u t-tariffi;

(b) fil-każ illi d-dokumentazzjoni jew l-informazzjoni kollha meħtieġa ma tkunx ġiet preżentata mal-applikazzjoni, il-Bord għandu javża lill-applikant u jitlob il-preżentazzjoni tad-dokumentazzjoni jew l-informazzjoni nieqsa. Il-Bord għandu jinforma lill-applikant li l-perjodu ta' żmien kkomunikat meta l-Bord kien avżah skont il-paragrafu preċedenti ser jiġi rivedut u illi l-perjodu ġdid ta' żmien ikun avżat lill-applikant meta l-Bord jirċievi d-dokumentazzjoni nieqsa;

(ċ) fil-każ illi l-Bord jirċievi d-dokumentazzjoni nieqsa, liema dokumentazzjoni għandha tkun preżentata flimkien mal-miżata preskritta, il-Bord għandu javża lill-applikant li rċieviha u jindika perjodu ta' żmien raġonevoli għall-konsiderazzjoni kontinwa tal-applikazzjoni bla ħsara għall-xi oġġezzjoni bil-miktub li tista' ssir wara l-publikazzjoni tat-talba u t-tariffi;

(d) wara li jkun rċieva d-dokumentazzjoni kolla meħtieġa, kemm jista' jkun malajr, il-Bord għandu jippubblika t-talba flimkien mat-tariffi proposti fil-Gazzetta u javża, li fi żmien sittin ġurnata wara l-publikazzjoni, utenti prospettivi jew ir-rappreżentanti tagħhom jistgħu jipprezentaw l-oġġezzjonijiet tagħhom bil-miktub, għat-talba jew għat-tariffi, mal-Bord. Dawn l-oġġezzjonijiet

għandhom ikunu akkumpanjata bil-miżata preskritta u jkunu preżentati skont id-disposizzjonijiet tat-regolament 4(3);

(e) il-Bord għandu jippubblika avviż f'żewg gazzetti lokali fejn jirreferi għall-publikazzjoni tat-talba u t-tariffi fil-Gazzetta; u

(f) l-ispejjeż kollha tal-publikazzjoni fil-Gazzetta u l-gazzetti lokali jkollu jhallashom l-applikant.";

(b) minflok is-subregolament (2) tiegħu, għandu jidhol dan li ġej:

"(2) Hekk kif jiskadu s-sittin gurnata kif speċifikat fis-subregolament (1):

(a) fil-każ illi ma jkun hemm l-ebda oġġezzjonijiet għat-talba u t-tariffi, il-Bord għandu japprova jew jirrifjuta t-talba għall-operazzjoni bħala *collecting society* fil-perjodu ta' żmien indikat fl-avviż maħruġ mill-Bord skont ir-regolament 5(1)(a) u (ċ) skont il-każ u wara li jikkunsidra r-regolament 4(3), (4) u (5); u

(b) fil-każ illi jkun hemm oġġezzjoniet għat-talba u t-tariffi, il-Bord għandu japprova jew jirrifjuta t-talba għall-operazzjoni bħala *collecting society* f'perjodu ta' żmien raġonevoli, filwaqt illi jikkunsidra r-regolament 4(3), (4) u (5) u r-raġunijiet tal-oġġezzjonijiet.";

(ċ) minnufih wara s-subregolament (2) tiegħu, għandu jidhol dan is-subregolament ġdid li ġej:

"(3) Waqt li jkun qed iqis talba għall-operazzjoni ta' *collecting society*, il-Bord jista' jsejjaħ lill-*collecting society* u lil kull persuna li tkun għamlet oġġezzjoni skont is-subregolament (1)(d) għal aktar lmenti, u għandu jagħti l-opportunita' lill-*collecting society* biex temenda t-talba tagħha skont ma jkun meħtieġ."; u

(d) is-subregolamenti (3) u (4) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subregolamenti (4) u (5) rispettivament.

Jemenda ir-regolament 6 tar-regolamenti prinċipali.

4. Ir-Regolament 6 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

(a) minflok is-subregolament (1) tiegħu, għandu jidhol dan li ġej:

"(1) Tariffa approvata għandha tkun effettiva sa dak iż-żmien illi tiġi approvata tariffa ġdida."; u

(b) fis-subregolament (2) tiegħu, il-kliem "Wara li jgħaddu s-sentejn speċifikati fis-subregolament (1)," għandhom jiġu sostitwiti bil-kliem "F'mhux inqas minn sitt xhur u mhux iżjed minn tmien xhur qabel ma jiskadi l-perjodu ta' sentejn kalendarji mid-data meta tkun ġiet pubblikata fil-Gazzetta,".

Jemenda ir-regolament 9 tar-regolamenti prinċipali.

5. Minnufih wara s-subregolament (2) tar-regolament 9 tar-regolamenti prinċipali, għandu jizjed dan li ġej:

"(3) Talba għal informazzjoni skont is-subregolamenti (1) u (2) għandha tkun magħmula jew lill-*collecting society* direttament jew flimkien mal-hlas tal-miżata preskritta lill-awtorità kompetenti li taqa' taħt il-Ministeru responsabbli għall-proprjetà intelletwali. L-awtorità kompetenti tinforma bit-talba lill-Bord. Il-Bord għandu iqis it-talba u jekk tkun meqjusa raġonevoli skont is-subregolament (2), il-Bord għandu:

(a) jipprovdi aċċess għall-informazzjoni meħtieġa jekk din tkun diġà ġiet disponibbli lill-Bord mill-*collecting society*; jew

(b) jitlob dik l-informazzjoni mill-*collecting society* u jibgħat l-informazzjoni miksuba lill-persuna li tkun qed titlobha.

Kap. 500.

(4) L-awtorità kompetenti għandha tikkopera mal-entità nominata skont l-artikolu 10(3) tal-Att dwar Servizzi li Jingħataw Fis-Suq Intern biex tiżgura illi l-informazzjoni generali dwar ir-rekwiżiti applikabbli f'Membri Stati oħra rigward rigward l-aċċess għal, jew l-eżerċizzju ta' *collecting societies* u il-mezzi jew rimedju disponibbli f'każ ta' tilwima li tikkonċerna riċevitur tas-servizzi ta' *collecting society*, tkun aċċessibbli faċilment għal fornituri u riċevituri."

6. It-test Ingliz tas-subregolament (3) tar-regolament 13 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

Jemenda ir-regolament 13 tar-regolamenti prinċipali.

(a) minflok il-kliem "a collecting society shall finish" għandhom jidhlu l-kliem "a collecting society shall furnish"; u

(b) minflok il-kliem "the collecting society to comply until its request" għandhom jidhlu l-kliem "the collecting society to comply with its request".

7. Minnufih wara r-regolament 14 tar-regolamenti prinċipali għandha tizzied din l-iskeda li ġejja:

Izid Skeda mar-regolamenti prinċipali.

"SKEDA
Mizati

Mizata għal talba għal approvazzjoni ta' *collecting society*
(Regolament 4) €200

Mizata għal preżentazzjoni ta' oġġezzjoni għat-talba jew għat-tariffi
(Regolament 5(1)(d)) €100

Mizata għal preżentazzjoni ta' dokumentazzjoni nieqsa
(Regolament 5(1)(c)) €50

Mizata għal preżentazzjoni ta' sett ġdid ta' tariffi
(Regolament 6) €100

Mizata għal talba ta' informazzjoni
(Regolament 9(3)) €50".

L.N. 80 of 2010

**COPYRIGHT ACT
(CAP. 415)**

**Control of the Establishment and Operation of Societies for the
Collective Administration of Copyright (Amendment) Regulations,
2010**

IN exercise of the powers conferred by article 59 of the Copyright Act, the Minister of Finance, the Economy and Investment has made the following regulations:–

Citation and
commencement.

S.L. 415.01.

1. (1) The title of these regulations is the Control of the Establishment and Operation of Societies for the Collective Administration of Copyright (Amendment) Regulations, 2010 and they shall be read and construed as one with the Control of the Establishment and Operation of Societies for the Collective Administration of Copyright Regulations, hereinafter in these regulations referred to as "the principal regulations".

(2) These regulations shall be deemed to have come into force on the 1st January, 2010.

Amends
regulation 4 of
the principal
regulations.

2. Regulation 4 of the principal regulations shall be amended as follows:

(a) in sub-regulation (2) thereof, the words "submitted to the Board shall include:" shall be substituted by the words ", which may also be submitted to the Board by electronic means, shall include:"; and

(b) in sub-regulation (2) thereof, immediately after paragraph (e), there shall be inserted the following new paragraphs:

"(f) the contact details, including a postal address, fax number or e-mail address, telephone number and the legal address if this is not the same as the postal address, for the purpose of receiving complaints or requests for information; and

(g) the prescribed fee for a request for approval of a collecting society".

3. Regulation 5 of the principal regulations shall be amended as follows:

Amends regulation 5 of the principal regulations.

(a) for sub-regulation (1) thereof, there shall be substituted the following:

"(1) As soon as practicable after the receipt of a request for the approval of a collecting society, the Board shall:

(a) issue an acknowledgement of receipt of the request to the applicant indicating therein a reasonable time period for the processing of the application:

Provided that such period shall apply if all the required documentation has been submitted and no written objection is received following the publication of the request and the tariffs;

(b) in the event that the required documentation or information is not submitted with the application, the Board shall issue a notification to the applicant requesting the submission of the missing documentation and information. The Board shall inform the applicant that the time period communicated in the acknowledgement issued in terms of the preceding paragraph will have to be reviewed and that the new time period will be notified to the applicant upon receipt of the missing documentation;

(c) in the event that the missing documentation is received by the Board, which documentation is to be submitted with the prescribed fee, the Board shall issue an acknowledgement to the applicant indicating therein a reasonable time period for the continued consideration of the application subject to there not being any written objections following the publication of the request and the tariffs;

(d) following the receipt of all the required documentation, as soon as practicable, the Board shall publish the request together with the proposed tariffs in the Gazette and shall give notice that, within sixty days after publication, prospective users or their representatives may file written objections, to the request or the tariffs, with the Board. These objections shall be accompanied by the prescribed fee and shall be submitted on the basis of the provisions of regulation 4(3);

(e) the Board shall publish a notice in two local newspapers thereby referring to the publication of the request and tariffs in the Gazette; and

(f) all publication costs in the Gazette and the local newspapers shall be borne by the applicant.";

(b) for sub-regulation (2) thereof, there shall be substituted the following:

"(2) Following the lapse of sixty days as specified in sub-regulation (1):

(a) in the event that no objections to the request and tariffs are made, the Board shall approve or refuse the request for operation of a collecting society within the time period indicated in the acknowledgement issued by the Board in accordance with regulation 5(1)(a) and (c) as the case may be and taking into consideration regulation 4(3), (4) and (5); and

(b) in the event that objections to the request and tariffs are made, the Board shall approve or refuse the request for operation of a collecting society within a reasonable time period, taking into consideration regulation 4(3), (4) and (5) and the grounds of the objections received.";

(c) immediately after sub-regulation (2) thereof, there shall be inserted the following new sub-regulation:

"(3) In considering any request for operation of a collecting society, the Board may call upon the collecting society and any person who has made an objection under sub-regulation (1)(d) for further representations, and shall provide the collecting society with the opportunity to amend its request as deemed necessary."; and

(d) sub-regulations (3) and (4) thereof shall be renumbered as sub-regulations (4) and (5) respectively.

4. Regulation 6 of the principal regulations shall be amended as follows:

Amends regulation 6 of the principal regulations.

(a) for sub-regulation (1) thereof, there shall be substituted the following:

"(1) An approved tariff shall be effective until such time as a new tariff is approved."; and

(b) in sub-regulation (2) thereof, for the words "After the two years specified in subregulation (1) have elapsed," there shall be substituted the words "Not less than six months and not more than eight months before the lapse of the period of two calendar years from the date when it was published in the Gazette,".

5. Immediately after sub-regulation (2) of regulation 9 of the principal regulations, there shall be inserted the following:

Amends regulation 9 of the principal regulations.

"(3) A request for information made in terms of sub-regulations (1) and (2) shall be made either to the collecting society directly or together with the payment of the prescribed fee to the competent authority falling within the Ministry responsible for intellectual property. The competent authority will inform the Board of the request. The Board shall consider the request and if found reasonable in terms of sub-regulation (2), the Board shall:

(a) provide access to the information required if this has already been made available to the Board by the collecting society; or

(b) request such information from the collecting society and forward the information obtained to the person requesting it.

(4) The competent authority shall cooperate with the designated entity in accordance with article 10(3) of the Services (Internal Market) Act to ensure that general information on the requirements applicable in other Member States relating to access to, and exercise of collecting societies and the means or redress available in the case of a dispute concerning a recipient of the services of a collecting society, is easily accessible to providers and recipients."

Cap. 500.

Amends regulation 13 of the principal regulations.

6. Sub-regulation (3) of regulation 13 of the principal regulations shall be amended as follows:

(a) for the words "a collecting society shall finish" there shall be substituted the words "a collecting society shall furnish"; and

(b) for the words "the collecting society to comply until its request" there shall be substituted the words "the collecting society to comply with its request".

Adds Schedule to the principal regulations.

7. Immediately after regulation 14 of the principal regulations there shall be added the following schedule:

"SCHEDULE
Fees

Fee for a request for approval of a collecting society
(Regulation 4) €200

Fee for submission of objection to the request or the tariffs
(Regulation 5(1)(d)) €100

Fee for submission of missing documentation
(Regulation 5(1) (c)) €50

Fee for submission of a new set of tariffs
(Regulation 6) €100

Fee for request for information
(Regulation 9(3)) €50".

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