

Changes to The Singapore Copyright Act Come Into Force

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On 21 November 2021, the amended Singapore Copyright Act came into force (**Amended Act**). Major updates were made to the existing Copyright Act in order to enhance protection of copyright in view of the various technological developments. We set out some of the key changes to take note of.

1. The copyright for all type of works created under commission will be owned by the creator

The copyright for all types of work (including portraits, photographs, engravings, sound recordings and film) will belong to the creators of commissioned works by default.

The default position can still be changed by a contract in writing. This means that parties can still reverse the default statutory position in a contract. Parties should take note of this change when negotiating the engagement of the artist.

2. Creators and performers have the right to be identified whenever their works or performances are used in public

Anyone who uses a creator's or performer's work in public has to identify the creator or performer. Usage of the work in public includes sharing it online, publishing it, performing it or using the work in corporate materials.

The identification has to be clear and reasonably prominent and in a way that the creator/performer has made known that he/she wishes to be identified (e.g. by true name or pseudonym).

This is the default position unless otherwise agreed.

3. Outlawing sales of devices and services used to access copyright infringing works

It is now an offence to make available devices or services (e.g. set top boxes or software applications), which allow access to copyright infringing material, for sale. The copyright owner can also sue anyone who makes such devices or services commercially available.

4. Copyright owners of sound recordings can collect fees for public broadcast of the recording

The Amended Act introduces a new right for copyright owners of sound recordings to collect fees for the public broadcast of their sound recording. The fees can be collected by Collective Management Organisations.

Businesses who intend to publicly broadcast sound recordings (e.g. restaurants, retail shops) need to pay licensing fees for the public broadcast of sound recordings in addition to the licence fees for the public performance of the underlying music.

5. Changing “Fair Dealing” Exception to “Fair Use”

The “Fair dealing” exception is now called “fair use”. It is no longer mandatory to consider the possibility of obtaining the work within a reasonable time at ordinary commercial price.

6. New exception for uses for works for computational data analysis

New exception for “computational data analysis” which includes using a computer program to identify, extract and analyse information or data from the work or using the work as an example of a type of information or data to improve the function of a computer program.

The conditions for the use of the exception includes as follows:

- A copy of the work is used for the purpose of computational data analysis or for preparing the work or recording for computational data analysis
- The work is not used for any other purpose
- The work is not supplied to anyone else other than for the purpose of verifying the results of the computational data analysis or research or study of the results
- Access to the work was obtained legally
- The copy of the work obtained is not an infringing copy. If the copy of the work is an infringing copy the user does not know or could not reasonably have known that the work is an infringing copy.

7. Certain Exceptions Cannot be Restricted by Contract

The list of exceptions that cannot be restricted in contracts is expanded to include:

- The new computational data analysis use exception
- Use of work in judicial proceedings or for legal advice

- Functions of galleries, libraries, archives, museums.

Other changes to note

- New permitted use of online material for educational purposes by non-profit schools
- Expiration date for protection of unpublished works
- Facilitating work of galleries, libraries, archives and museums
- Adjusting existing provisions for users who are blind, visually impaired or otherwise print-disabled
- Materials held by government or public agencies which are provided to the public can be copied and further made available without infringing copyright when used for public interest.

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