

PROPOSED AMENMENTS TO THE COPYRIGHT ACT 1987
(For purposes of consultation and obtaining feedback only)

**INTELLECTUAL PROPERTY CORPORATION OF MALAYSIA
(MyIPO)**



PUBLIC CONSULTATION PAPER

NOVEMBER 2021

Bil: 1/2021/CP/tb

PROPOSED AMENDMENTS ON THE PROVISIONS RELATING TO THE COPYRIGHT ACT 1987

INTRODUCTION

This consultation paper seeks for feedback on the proposed changes to the Copyright Act 1987 [Act 332]. The Intellectual Property Corporation of Malaysia (MyIPO) welcomes any interested parties to make a written submission in response to the proposed changes and new provisions as stated herein.

The proposed amendments are intended to benefit the stakeholders in many aspects as it takes into account all the improvements to the current Copyright Act and it would also benefit MyIPO as the proposed amendments will enable MyIPO to perform its regulatory function more effectively.

Since 2012 until now, various engagements with the stakeholders had been made and all the inputs gathered from the engagements have been taken into consideration when reviewing the current Copyright Act and in formulating policy for the amendments of the Copyright Act.

As part of our on-going review, we are seeking feedbacks from the stakeholders on the proposed amendments to the Copyright Act which is expected to be table in the Parliament soon.

BACKGROUND

The objective of this consultation paper is to review the current Copyright Act 1987 [Act 332] in order to seek balance between copyright owners and users in ensuring sustainability of the national copyright industries, attracting investment and promoting new creations where the provisions of Copyright law would need to be strengthened and better clarified.

In addition, the requirement to accede to an international treaty is also timely as Malaysia is seen as competitive in terms of adhering to the copyright protection. It is therefore essential that we continue to gain confidence of other countries on the Copyright legal framework and at the same time acting as a recipient of copyright works in the international member states or trade partners.

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Our proposals on the possible changes to Copyright Act 1987 is as follows:

No.	Matter	Current Provision	Summary of Proposed New Provisions and Amendments
1.	Accession to Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled 2013	Section 13(2)(gggg)	<p>Malaysia has intensify and accelerate its efforts towards Malaysia's accession to the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled which is aimed at empowering and facilitating access to published works for persons who are blind or partially sighted since the treaty was concluded in 2013.</p> <p>Various dialogue, engagement, seminar, consultation has been made between 2013 till 2020 to expedite the ratification and to implement the country's obligations under the said treaty</p> <p>As such, it is proposed to introduce a provision to promote access to information as well as provides an exception under the law for use of accessible format work without permission from the copyright holder for print disabled person.</p>

			<p>The print disabled person may include a person who are blind, visually impaired person or people who have visual, perceptual, learning or physical disabilities.</p> <p>Amongst the provision that will be introduced are as follows:</p> <ul style="list-style-type: none"> i. ii. revising the current exemption under section 13(2)(gggg) applies to print disability person including its caregiver, and to authorized entities representing the disability persons; and iii. Seeking to permit the act of making, issuing, distribution, making available, import, and export of accessible format copies without authorization from right holders for print disability persons and authorized entities.
2.	Enhancement of Voluntary Notification	Section 26A	<p>It is proposed to improve the delivery system for voluntary notification as well as simplifying the application procedures in voluntary notification, among other thing is by omitting the requirement of statutory declaration.</p>

3.	Collective Management Organization (CMO)	Section 27A	<p>It is proposed to replace term “licensing bodies with “collective management organization” to be in line with international practice and introduce effective period of declaration of collective management organization for two years and shall be renewed every two years.</p> <p>It is also proposed to improve efficacy of granting declaration, renewal of declaration, and refusal of application to be of collective management organization in the office and imposition of surcharge for renewal made after expiry of such declaration as streamlining the procedures in collective management organization to be more simple and clearer.</p>
4.	Guidelines for Collective Management Organization	N/A	<p>It is proposed that the Controller may issue guidelines relating to any matter on the declaration and operation of the collective management organization.</p> <p>This guideline serves to guide the applicant on the overall process of declaration, refusal of declaration, and renewal of declaration of collective management organization. This guideline also can be viewed by public at large for clearer understanding on how collective management works in Malaysia.</p>

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5.	General Offences	N/A	<p>Copyright piracy may be facilitated through websites that do not host infringing content themselves but contain links, embedded or otherwise, to other websites hosting copyright-protected content that was not made available to the public at that particular site with the right holder's authorization.</p> <p>In this regard, a new provision is proposed to introduce a new paragraph (k) to make it an offence of any person who provides or shares access to an online location of any works or copies of works to any other person without authority.</p>
6.	Compounding Offences	Section 41A	<p>It is proposed to empower the Controller, Deputy Controller or any person authorized in writing by the Controller, (with the written consent of the Public Prosecutor), to compound any offence which is prescribed to be a compoundable offence committed by any person under Act 332. The amount compounded shall not exceed fifty per centum of the amount of the maximum fine for that offence.</p>

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7.	Offences with regards to streaming technology	N/A	It is proposed to introduce new offences for infringement of copyright in any work by a person who among others manufactures, imports or sells or lets for hire an illicit streaming device.
8.	Obstruction to search, etc.	Section 48	It is proposed to introduce new paragraph to make it an offence for any person who intentionally caused any evidence relating to the commission of an offence to disappear or who gives any information in respect of the offence which he knows or believes to be false, with the intention of screening the offender from legal punishment.
9.	Test Purchase	N/A	It is proposed to introduce new section to empower an Assistant Controller to direct the copyright owner or any person authorized to act on behalf of the copyright owner to make test purchase in order for to enable Assistant Controller exercise its function to determine the commission of an offence under Act 332.
10.	Power of the Assistant Controller to require provision of information	N/A	It is proposed to empower an Assistant Controller to require any person that has any information or document, or is capable of giving any evidence, to produce such information document or evidence relevant to the

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			performance of the Assistant Controller's power and functions, and to provide for the procedures for the exercise of the powers by the Assistant Controller.
11.	Validation and indemnity	N/A	It is proposed to seek to validate the imposition and collection of fees in respect of declaration made under section 27A of Act 332 for the period from 1 June 2012 preceding the commencement of this Act.
12.	Saving and Transitional	N/A	This proposal deals with saving and transitional provisions.

CONCLUSION

We look forward to your feedback and suggestions in relation to the proposal indicated above.

Your feedback is important to help us in enhancing the law review exercise. The feedback and suggestions may be submitted in electronic form, with the subject “Public Consultation on the Proposed Amendments to the Copyright Act 1987” to Mr. Syaufiq Latif at syaufiq@myipo.gov.my

MyIPO reserves the right to disclose the feedback or suggestions and make them available to the general public, in whole or in part, through the website or other means.

Please submit your feedback by 6.00 pm, **03 December 2021 (Friday)**. Thank you.