VERŻJONI ELETTRONIKA

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.

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".

S.L. 415.01.

(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.

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(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.".

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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