

Legislative Council Bills Committee

Copyright (Suspension of Amendments) Bill 2001

Committee Stage Amendments (Revised)

Purpose

This paper provides explanation for the new amendments included in the revised committee stage amendments (Annex) to the Copyright (Suspension of Amendments) Bill 2001.

Amendments to Clauses 2(2)(a) and (b)

2. Clauses 2(2)(a) and (b) provide that Clause 2(1) does not apply to a movie or television drama “that has been published or intended to be published in Hong Kong or elsewhere”. A Member considered that the expression “that has been published or intended to be published in Hong Kong or elsewhere” can be deleted. The purpose of the expression is to stipulate that the works concerned include unscreened works. Having consulted legal advice, we agree that the expression can be deleted without causing any confusion.

Clause 2D

3. The original Clause 3A has become Clause 2D. Besides, a minor technical amendment is made to Clause 3A(b) to provide a more precise description of the computer program concerned i.e. the computer program should not just **relate** to a copyright work but should **incorporate** the whole or any part of that copyright work.

Amendment to Clause 2(3)

4. In view of Clause 2D, we suggest that a technical amendment be made to Clause 2(3).

Commerce and Industry Bureau
May 2001

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Commerce and Industry

| <u>Clause</u> | <u>Amendment Proposed</u> |
|---------------|---|
| 2 | <p>(a) In subclause (1), by deleting "subsection (2)" and substituting "subsections (2) to (2C)".</p> <p>(b) In subclause (2)(a), by deleting "and that has been published or is intended to be published in Hong Kong or elsewhere".</p> <p>(c) In subclause (2)(b), by deleting "and that has been published or is intended to be published in Hong Kong or elsewhere;" and substituting "; or".</p> <p>(d) In subclause (2)(c) -</p> <ul style="list-style-type: none">(i) by deleting "substantial" and substituting "predominant";(ii) by deleting "或任" and substituting "及任";(iii) by deleting "; or" and substituting a full stop. <p>(e) By deleting subclause (2)(d).</p> <p>(f) By adding -</p> |

Clause

Amendment Proposed

"(2A) Subsection (1) does not apply in relation to an infringing copy of a computer program that is an infringing copy by virtue of section 35(2) of the Copyright Ordinance (Cap. 528).

(2B) Subsection (1) does not apply in relation to an infringing copy of a computer program that -

- (a) is an infringing copy by virtue of section 35(3) of the Copyright Ordinance (Cap. 528); and
- (b) was not lawfully made in the country, territory or area where it was made.

(2C) Subsection (1) does not apply in relation to an infringing copy of a computer program that -

- (a) is an infringing copy by virtue of section 35(3) of the Copyright Ordinance (Cap. 528); and

Clause

Amendment Proposed

(b) was made in a country, territory or area where there is no law protecting copyright in the work or where the copyright in the work has expired.

(2D) For the purpose of subsections (2A), (2B) and (2C), "infringing copy" (侵犯版權複製品) does not include an infringing copy -

- (a) that is in a printed form; or
- (b) that incorporates the whole or any part of a work not being a computer program itself and that is technically required for the viewing or listening of that work by a member of the public to whom a copy of the work is made available."

Clause

Amendment Proposed

- (g) In subclause (3), by deleting "The terms" and substituting "Except as otherwise provided in subsection (2D), the terms".