

A BILL

To

Provide for the suspension of the operation of certain amendments to the Copyright Ordinance effected by the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 (64 of 2000).

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Copyright (Suspension of Amendments) Ordinance 2001.

2. Suspension of amendments

(1) Subject to subsection (2), with effect on and from the commencement of this Ordinance, sections 118 and 120 of the Copyright Ordinance (Cap. 528) shall be read as if the amendments effected by sections 2 to 7 and 9 to 18 of the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 (64 of 2000) had not been enacted.

(2) Subsection (1) does not apply in relation to an infringing copy of any of the following works -

- (a) a film commonly known as a movie and that has been published or is intended to be published in Hong Kong or elsewhere;
- (b) a film commonly known as a television drama and that has been published or is intended to be published in Hong Kong or elsewhere;
- (c) a sound recording or film the whole or a substantial part of which consists of a musical work and any related literary work; or

(d) a computer program (excluding a computer program in a printed form).

(3) The terms and expressions used in this section have the same meaning as in Part II of the Copyright Ordinance (Cap. 528).

3. Lifting of suspension

(1) Section 2 shall cease to have effect on 31 July 2002.

(2) The Secretary for Commerce and Industry may, by notice published in the Gazette before the date specified in subsection (1), amend that subsection by substituting for that date such date as is specified in the notice.

(3) A notice under subsection (2) shall be subject to the approval of the Legislative Council.

(4) It is hereby declared that a notice under subsection (2) is subsidiary legislation.

Explanatory Memorandum

Sections 2 to 7 and 9 to 18 of the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 (64 of 2000) replaced the phrase “for the purpose of trade or business” with “for the purpose of, in the course of, or in connection with, any trade or business” in sections 31, 32, 95, 96, 109, 118, 120, 207, 211, 228 and 273 of the Copyright Ordinance (Cap. 528) and made other related amendments. This Bill will suspend the operation of those amendments insofar as they relate to the offences in sections 118 and 120 of the Copyright Ordinance (Cap. 528), subject to certain exceptions.

2. Clause 2(1) provides that, subject to clause 2(2), sections 118 and 120 of the Copyright Ordinance (Cap. 528) shall be read as if the amendments effected by sections 2 to 7 and 9 to 18 of the Intellectual Property (Miscellaneous Amendments) Ordinance 2000 (64 of 2000) had not been enacted.

3. Clause 2(2) provides that clause 2(1) does not apply in relation to an infringing copy of a movie, television drama, sounding recording or computer program as described in that clause.

4. Clause 3 provides for the suspension to be lifted on 31 July 2002 or on such other date as the Secretary for Commerce and Industry may specify by notice published in the Gazette with the approval of the Legislative Council.