

HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 13 OF 2001

L.S.

TUNG Chee-hwa
Chief Executive
21 June 2001

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

[22 June 2001]

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 subsections (2) to (5), with effect on and from 1 April 2001, 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;
- (b) a film commonly known as a television drama; or
- (c) a sound recording or film the whole or a predominant part of which consists of a musical work and any related literary work.

(3) 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).

- (4) 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.
- (5) 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 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.
- (6) For the purposes of subsections (3), (4) and (5), “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.
- (7) With effect on and from 1 April 2001, for the purposes of any offence under section 118 or 120 of the Copyright Ordinance (Cap. 528) relating to an infringing copy of any of the works described in subsections (2), (3), (4) and (5)—
- (a) the reference to “for the purpose of, in the course of, or in connection with, any trade or business” in sections 31(1)(a) and (c), 32(1)(c), 95(1)(a) and (c), 96(5) and (6), 109(1)(a), 118(1)(d) and (e), 207(1)(b), 211(1)(b) and 228(1) of that Ordinance shall be read as a reference to “for the purpose of, or in the course of, any trade or business”;
 - (b) the reference to “otherwise than for the purpose of, in the course of, or in connection with, any trade or business” in sections 31(1)(d), 95(1)(d) and 118(1)(f) of that Ordinance shall be read as a reference to “otherwise than for the purpose of, or in the course of, any trade or business”; and
 - (c) the reference to “for the purpose of, in the course of, or in connection with, any trade or business” in sections 118(4), (5) and (8), 120(2) and 273(2)(a) of that Ordinance shall be read as a reference to “for the purpose of, or in the course of, any trade or business”.
- (8) Except as otherwise provided in subsection (6), 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.