

Legislative Council Bills Committee

Copyright (Amendment) Bill 2001

Draft Committee Stage Amendments

Purpose

This paper sets out the revised draft Committee Stage Amendments (“CSAs”) (at Annex) to the Copyright (Amendment) Bill 2001 (“Bill”) to be moved by the Secretary for Commerce, Industry and Technology.

2. At the last meeting, Members asked that amendments of purely drafting nature proposed under the Copyright (Amendment) Bill 2003 (“2003 Bill”) be included in the Bill. A number of the amendments described below are for this purpose, and these are indicated by the heading “(2003 Bill amendment)”. If these proposed CSAs are enacted, the corresponding provisions in the 2003 Bill will be amended or deleted as appropriate.

Amendment to Clause 1

3. The reference to “Secretary for Commerce and Industry” is replaced by “Secretary for Commerce, Industry and Technology”.

Amendment to Clause 2

Section 35(9) (2003 Bill Amendment)

4. The definition of “lawfully made” in section 35(9) is to be transposed to section 198 (see paragraph 13 below). Section 35(9) is accordingly repealed.

Amendments to Clause 3

Section 35A(2)(b)

5. A consequential amendment is made to section 35A(2)(b) in view of the amendments proposed to section 35A described in paragraphs 7 to 9 below.

Section 35A(2)

6. Section 35A(2) is amended to make the definition of “copy of an associated work” applicable to the whole of Part II of the Ordinance.

New section 35A(3) to (6)

7. At the Bills Committee meeting on 10 December 2002, we proposed tightening up the 20-minute test in relation to movies and television dramas embodied in a parallel-imported article containing a computer program. The revised threshold is 15 minutes for movies and 10 minutes for television dramas. These changes are reflected in proposed section 35A(3) and (4). The wording of those provisions takes into account comments made by Members and the Assistant Legal Adviser.

8. The wording of the provisions relating to musical sound recordings and musical visual recordings has been tidied up. These are now at section 35A(5) and (6).

9. The definitions of “feature film”, “musical sound recording” and “musical visual recording” currently at section 35A(4) of the Bill will be transposed to section 198(1) (see paragraph 12 for details).

Amendments to Clause 4

Section 118A(1)

10. Having taken into account the comments from the Assistant Legal Adviser, we have tidied up the wording of this section. There is no change of legal effect.

Section 118A(2)

11. Following the amendment to section 35A(2) described at paragraph 6 above, the definition of “associated works” is no longer required in this section.

Addition of Clause 4A

Section 198(1) (2003 Bill amendment)

12. As stated in paragraph 9 above, the definitions of “feature film”, “musical sound recording” and “musical visual recording” are transposed to section 198(1).

New Section 198(3) (2003 Bill amendment)

13. The definition of “lawfully made” is transposed from existing section 35(9) to this section (see paragraph 4 above).

Addition of Clause 4B

Section 199 (2003 Bill amendment)

14. These are consequential amendments to reflect the amendments to section 198(1) and section 198(3) (see paragraphs 12 and 13 above).

Amendments to Clause 5

New section 282 (2003 Bill amendment)

15. A new section 282 is added to provide for all transitional provisions arising from this Bill and any future Bill to be located in a schedule to the Ordinance (namely, new Schedule 6).

Addition of Clause 6

New Schedule 6 (2003 Bill amendment)

16. A new Schedule 6 is added, and the transitional provisions are transposed from proposed sections 199A and 199B (under Clause 5 of the Bill) to the new Schedule as described in paragraph 15 above.

17. The transitional provisions themselves have been revised for consistency of wording with the 2003 Bill (but without change in legal effect), and their order has been rearranged as follows –

<u>Proposed</u>	<u>Existing</u>
Schedule 6, section 1	Section 199A(1), 199B(1)
Schedule 6, section 2	Section 199B
Schedule 6, section 3	Section 199A(2)
Schedule 6, section 4	Section 199A(3)

Commerce and Industry Branch
Commerce, Industry and Technology Bureau
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