

L.N. 148 of 2025

Copyright (Libraries, Museums and Archives—Prescribed Conditions for Making Copy) Regulation

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Copyright (Libraries, Museums and Archives—Prescribed Conditions for Making Copy) Regulation

(Made by the Secretary for Commerce and Economic Development under section 46(1)(a) of the Copyright Ordinance (Cap. 528))

1. Commencement

This Regulation comes into operation on 1 January 2026.

2. Prescribed conditions for section 47 of Ordinance

- (1) For the purposes of section 47 of the Ordinance, if a librarian is to make a copy of an article in a periodical and supply it to a person (*recipient*) without infringing any copyright as mentioned in that section, the following conditions must be complied with—
 - (a) the librarian is satisfied on a declaration by the recipient that—
 - (i) the recipient requires the copy for the purposes of research or private study and will not use the copy for any other purpose;
 - (ii) the requirement of the recipient is not related to any similar requirement of another person; and
 - (iii) the recipient—
 - (A) has never had a copy of the article; or
 - (B) had had a copy of the article but the copy has been lost, destroyed or damaged;
 - (b) the recipient may not be supplied with more than one copy of the article, or with copies of more than one article contained in the same issue of the periodical; and

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- (c) the recipient is required to pay for the copy of the article a sum not less than the cost (including a contribution to the general expenses of the library) attributable to the production of the copy.
- (2) For the purposes of the requirement of the recipient under subsection (1)(a)(ii)—
 - (a) requirements are to be regarded as similar if they are made at substantially the same time for substantially the same purpose for copies of substantially the same article; and
 - (b) requirements made by different persons are to be regarded as related if the persons receive instruction to which the article is relevant at the same time and place.

3. Prescribed conditions for section 48 of Ordinance

- (1) For the purposes of section 48 of the Ordinance, if a librarian is to make a copy of part of any published work and supply it to a person (*recipient*) without infringing any copyright as mentioned in that section, the following conditions must be complied with—
 - (a) the librarian is satisfied on a declaration by the recipient that—
 - (i) the recipient requires the copy for the purposes of research or private study and will not use the copy for any other purpose;
 - (ii) the requirement of the recipient is not related to any similar requirement of another person; and
 - (iii) the recipient—
 - (A) has never had a copy of the same part of the published work; or

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- (B) had had a copy of the same part of the published work but the copy has been lost, destroyed or damaged;
 - (b) the recipient may not be supplied with more than one copy of the same part of the published work, or with a copy of more than a reasonable proportion of the published work; and
 - (c) the recipient is required to pay for the copy of the part of the published work a sum not less than the cost (including a contribution to the general expenses of the library) attributable to the production of the copy.
- (2) For the purposes of the requirement of the recipient under subsection (1)(a)(ii)—
- (a) requirements are to be regarded as similar if they are made at substantially the same time for substantially the same purpose for copies of substantially the same part of any published work; and
 - (b) requirements made by different persons are to be regarded as related if the persons receive instruction to which the same part of any published work is relevant at the same time and place.
- (3) For the purposes of subsection (1)(b)—
- (a) to avoid doubt, a published work in an anthology, compilation or collection is to be regarded as the whole work and not as a part of the anthology, compilation or collection in which it is published;

Example—

A poem published in an anthology is to be regarded as the whole work and not as a part of the anthology.

- (b) in determining whether a copy of part of any published work is more than a reasonable proportion of the work, all circumstances of the case are to be taken into account, in particular—

- (i) the type and nature of the work; and
 - (ii) the volume of the work; and

Example—

- (a) for work in written form—the number of words or pages of the work;
 - (b) for work in audio or video form—the duration of the work; or
 - (c) for work in electronic form—the number of bytes of the work.
 - (c) if a copy consists of not more than 10% of any published work by reference to duration or number of words, pages or bytes or otherwise, the copy is to be regarded as a reasonable proportion of the work.

- (4) In this section—

published work (已發表作品) means—

- (a) a published literary, dramatic, musical or artistic work (other than an article in a periodical); or
 - (b) a published sound recording or film.

4. Prescribed conditions for section 50 of Ordinance

- (1) For the purposes of section 50 of the Ordinance, if the librarian of a source library is to make a copy of any specified material and supply it to a receiving library without infringing any copyright as mentioned in that section, the following conditions must be complied with—

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- (a) the librarian of the source library is satisfied on a declaration by the librarian of the receiving library that—
 - (i) the receiving library is a specified library to which a copy of any specified material may be supplied as mentioned in that section;
 - (ii) the receiving library—
 - (A) has never had a copy of the specified material; or
 - (B) had had a copy of the specified material but the copy has been lost, destroyed or damaged; and
 - (iii) it is not reasonably practicable for the receiving library to purchase a copy of the specified material;
 - (b) the receiving library may not be supplied with more than one copy of the specified material; and
 - (c) the sum (if any) charged by the source library on the receiving library for making and supplying the copy of the specified material must not exceed the cost (including a contribution to the general expenses of the source library) attributable to the production and supply of the copy.
- (2) In this section—
- receiving library*** (收件圖書館) means a library to which a copy of a specified material is supplied as mentioned in section 50 of the Ordinance by another library (***source library***);
- source library*** (製件圖書館)—see the definition of ***receiving library***;
- specified material*** (指明材料) means any item mentioned in section 50(1)(a), (b) or (c) of the Ordinance.

5. Prescribed conditions for section 51 of Ordinance

- (1) For the purposes of section 51 of the Ordinance, if the head of an establishment is to make a copy from an item in the permanent collection of the establishment (*subject item*) without infringing any copyright as mentioned in that section, the following conditions must be complied with—
 - (a) the copy of the subject item must not be made as mentioned in that section unless it is not reasonably practicable to purchase a copy of the subject item to fulfill the purpose specified in subsection (1)(a) or (b) of that section;
 - (b) the head of the establishment must ensure that the permanent collection the copy of the subject item in which is made as mentioned in that section is—
 - (i) a collection of cultural or historical significance or importance that is maintained by the establishment with a view to its being used by any person wholly or primarily for reference on the premises of the establishment; or
 - (ii) a collection of cultural or historical significance or importance of the establishment available on loan only to any other establishment;
 - (c) the head of a source establishment must not make the copy from the subject item for a receiving establishment to fulfill the purpose specified in subsection (1)(b) of that section unless the head is satisfied on a declaration by the head of the receiving establishment that—
 - (i) the receiving establishment is a specified library, museum or archive mentioned in subsection (1)(b) of that section;

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- (ii) the permanent collection of the receiving establishment is—
 - (A) a collection of cultural or historical significance or importance that is maintained by the receiving establishment with a view to its being used by any person wholly or primarily for reference on the premises of the receiving establishment; or
 - (B) a collection of cultural or historical significance or importance of the receiving establishment available on loan only to any other establishment;
 - (iii) there is an item in the permanent collection of the receiving establishment that has become an unavailable item;
 - (iv) it is not reasonably practicable for the receiving establishment to purchase a copy of the unavailable item; and
 - (v) if the copy of the subject item is supplied, it will only be used to replace the unavailable item; and
 - (d) the sum (if any) charged by the source establishment on the receiving establishment for making the copy from the subject item must not exceed the cost (including a contribution to the general expenses of the source establishment) attributable to the production of the copy.
- (2) To avoid doubt, the permanent collection of an establishment referred to in subsection (1) includes any collection that is kept by the establishment on a permanent basis, regardless of whether an item in the collection may be returned to the owner of that item

temporarily, so long as the collection falls within the description of—

- (a) for the collection kept by an establishment that is to make a copy from an item as mentioned in section 51 of the Ordinance—subsection (1)(b)(i) or (ii); or
- (b) for the collection kept by a receiving establishment—subsection (1)(c)(ii)(A) or (B).

(3) In this section—

establishment (機構) means a library, museum or archive;

head (主管), in relation to an establishment, means—

- (a) for a library—the librarian of the library;
- (b) for a museum—the curator of the museum; and
- (c) for an archive—the archivist of the archive;

receiving establishment (收件機構) means an establishment (***former***) that is to receive a copy of an item in the permanent collection of another establishment (***source establishment***) that is made by the source establishment to replace an item in the former's permanent collection that is an unavailable item as mentioned in section 51(1)(b) of the Ordinance;

source establishment (製件機構)—see the definition of ***receiving establishment***;

unavailable item (折損項目) means an item that has been lost, destroyed or damaged.

6. Prescribed conditions for section 52 of Ordinance

- (1) For the purposes of section 52 of the Ordinance, if a librarian, curator or archivist is to make a copy of any unpublished work and supply it to a person (***recipient***)

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without infringing any copyright as mentioned in that section, the following conditions must be complied with—

- (a) the librarian, curator or archivist is satisfied on a declaration by the recipient that—
 - (i) the recipient requires the copy for the purposes of research or private study and will not use the copy for any other purpose; and
 - (ii) the recipient—
 - (A) has never had a copy of the unpublished work; or
 - (B) had had a copy of the unpublished work but the copy has been lost, destroyed or damaged;
- (b) the recipient may not be supplied with more than one copy of the unpublished work; and
- (c) the recipient is required to pay for the copy of the unpublished work a sum not less than the cost (including a contribution to the general expenses of the library, museum or archive) attributable to the production of the copy.

(2) In this section—

unpublished work (未發表作品) means the whole or part of any copyright work mentioned in section 52(1)(a) or (b) of the Ordinance.

7. Supplementary provisions for declaration

For the purposes of this Regulation, if a person (***person A***) is required to be satisfied on a declaration by another person (***person B***) as to any matter before making or supplying a copy of any article, work, material or item—

- (a) the declaration must be—

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- (i) made in—
 - (A) for a declaration mentioned in section 2 or 3—Form 1 prescribed in the Schedule;
 - (B) for a declaration mentioned in section 4—Form 2 prescribed in the Schedule;
 - (C) for a declaration mentioned in section 5—Form 3 prescribed in the Schedule; and
 - (D) for a declaration mentioned in section 6—Form 4 prescribed in the Schedule;
 - (ii) signed by person B; and
 - (iii) delivered to person A;
 - (b) person A may rely on the declaration as to the matter unless person A is aware that the declaration is false in a material particular; and
 - (c) person A must not make or supply to person B a copy of the article, work, material or item under this Regulation in the absence of the declaration.
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Schedule

[s. 7]

Prescribed Forms of Declaration

Form 1

(For the purposes of section 47 or 48 of the Copyright Ordinance (Cap. 528))

To: The Librarian of the

_____ (*name of the library*) of
_____ (*address*)

- 1. I, _____ (*name*) of _____ (*address*), request you to make a copy of *[_____ (*particulars of article*)] *[_____ (*particulars of work of which a part is required to be supplied and particulars of that part*)] and supply the copy to me. I require the copy for the purposes of research or private study.
- 2. *[I have never had a copy of *[the article] *[the part of the work].] *[I had had a copy of *[the article] *[the part of the work] but the copy has been lost, destroyed or damaged.]
- 3. To the best of my knowledge, my requirement for a copy of *[the article] *[the part of the work] is not related to any similar requirement for the copy of any other person.

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4. I undertake that if the copy is supplied to me in compliance with the request made above, I will not use it except only for the purposes of research or private study.
5. I undertake that if the copy is supplied to me in compliance with the request made above, I will not reproduce, communicate or otherwise disseminate the copy without a licence of the copyright owner or beyond the scope of a permitted act under the Copyright Ordinance (Cap. 528).
6. I understand that a reproduction, communication or dissemination of the copy (if supplied) in breach of the undertaking made under paragraph 5 may constitute copyright infringement and incur legal liability.

Signature _____

Date _____

* Delete whichever is inappropriate.

Form 2

(For the purposes of section 50 of the Copyright Ordinance (Cap. 528))

To: The Librarian of the

_____ (*name of the library*) of

_____ (*address*)

1. I, _____ (*name*) of _____ (*address*), am

*[the librarian of the _____ (*name of the library*) (***our library***)] *[acting on behalf of the librarian of the _____ (*name of the library*) (***our library***)].

2. Our library is a specified library to which a copy of *[an article in a periodical] *[the whole or part of a published literary, dramatic, musical or artistic work] *[a sound recording or film] may be supplied as mentioned in section 50 of the Copyright Ordinance (Cap. 528).
3. I request you to make a copy of *[_____ (*particulars of the article*)] *[_____ (*particulars of the published work of which the whole or a part is required to be supplied and particulars of the whole work or that part*)] *[_____ (*particulars of the sound recording or film*)] and supply the copy to our library.
4. *[Our library has never had a copy of *[the article] *[the whole or part of the work] *[the sound recording or film].] *[Our library had had a copy of *[the article] *[the whole or part of the work] *[the sound recording or film] but the copy has been lost, destroyed or damaged.]
5. It is not reasonably practicable for our library to purchase a copy of *[the article] *[the whole or part of the work] *[the sound recording or film].
6. I undertake that if the copy is supplied to our library in compliance with the request made above, our library will not reproduce, communicate or otherwise disseminate the copy without a licence of the copyright owner or beyond the scope of a permitted act under the Copyright Ordinance (Cap. 528).

7. I understand that a reproduction, communication or dissemination of the copy (if supplied) in breach of the undertaking made under paragraph 6 may constitute copyright infringement and incur legal liability.

Signature _____

Date _____

* Delete whichever is inappropriate.

Form 3

(For the purposes of section 51 of the Copyright Ordinance (Cap. 528))

To: The *[Librarian] *[Curator] *[Archivist] of the
_____ (*name of the library, museum or archive*) of
_____ (*address*)

1. I, _____ (*name*) of _____ (*address*), am
*[the *[librarian] *[curator] *[archivist] of the _____
(*name of the library, museum or archive*) *[(**our library**)] *[(**our museum**)] *[(**our archive**)]] *[acting on behalf of the *[librarian]
*[curator] *[archivist] of the _____ (*name of the library, museum or archive*) *[(**our library**)] *[(**our museum**)] *[(**our archive**)]].

2. *[Our library] *[Our museum] *[Our archive] is a specified library, museum or archive an item in the permanent collection of which may be replaced as mentioned in section 51(1)(b) of the Copyright Ordinance (Cap. 528).
3. The permanent collection of *[our library] *[our museum] *[our archive] is *[a collection of cultural or historical significance or importance that is maintained by *[our library] *[our museum] *[our archive] with a view to its being used by any person wholly or primarily for reference on the premises of *[our library] *[our museum] *[our archive]] *[a collection of cultural or historical significance or importance of *[our library] *[our museum] *[our archive] available on loan only to any other library, museum or archive].
4. An item in the permanent collection of *[our library] *[our museum] *[our archive] has been lost, destroyed or damaged.
5. It is not reasonably practicable for *[our library] *[our museum] *[our archive] to purchase a copy of the item.
6. I request you to make a copy from _____ (*particulars of item in the permanent collection of your library, museum or archive*) and supply the copy to *[our library] *[our museum] *[our archive]. *[Our library] *[Our museum] *[Our archive] requires the copy for the purpose of replacing the item.
7. I undertake that if the copy is supplied to *[our library] *[our museum] *[our archive] in compliance with the request made above, *[our library] *[our museum] *[our archive] will not use it except only for the purpose of replacing the item.
8. I undertake that if the copy is supplied to *[our library] *[our museum] *[our archive] in compliance with the request made

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above, *[our library] *[our museum] *[our archive] will not reproduce, communicate or otherwise disseminate the copy without a licence of the copyright owner or beyond the scope of a permitted act under the Copyright Ordinance (Cap. 528).

9. I understand that a reproduction, communication or dissemination of the copy (if supplied) in breach of the undertaking made under paragraph 8 may constitute copyright infringement and incur legal liability.

Signature _____

Date _____

* Delete whichever is inappropriate.

Form 4

(For the purposes of section 52 of the Copyright Ordinance (Cap. 528))

To: The *[Librarian] *[Curator] *[Archivist] of the
_____ (name of the library, museum or archive) of
_____ (address)

1. I, _____ (name) of _____ (address),
request you to make a copy of _____ (particulars of unpublished work of which the whole or a part is required to be supplied and particulars of the whole work or that part) and supply the copy to me. I require the copy for the purposes of research or private study.

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-
2. *[I have never had a copy of the whole or part of the work.] *[I had had a copy of the whole or part of the work but the copy has been lost, destroyed or damaged.]
 3. I undertake that if the copy is supplied to me in compliance with the request made above, I will not use it except only for the purposes of research or private study.
 4. I undertake that if the copy is supplied to me in compliance with the request made above, I will not reproduce, communicate or otherwise disseminate the copy without a licence of the copyright owner or beyond the scope of a permitted act under the Copyright Ordinance (Cap. 528).
 5. I understand that a reproduction, communication or dissemination of the copy (if supplied) in breach of the undertaking made under paragraph 4 may constitute copyright infringement and incur legal liability.

Signature _____

Date _____

* Delete whichever is inappropriate.

Algernon YAU Ying-wah
Secretary for Commerce and
Economic Development

8 July 2025

Explanatory Note

Under section 46(1)(a) of the Copyright Ordinance (Cap. 528) (***Ordinance***), the Secretary for Commerce and Economic Development may, by regulations, prescribe conditions for the purposes of any provision in sections 47 to 53 (copying and communication by librarians, curators and archivists) of the Ordinance.

2. This Regulation provides for the conditions for the purposes of sections 47, 48, 50, 51 and 52 of the Ordinance.