

## CHAPTER 60

### COPYRIGHT

#### ARRANGEMENT OF SECTIONS

##### Section

1. Short title
2. Penalties for dealing with infringing copies, etc.
3. Application of section 22 of the Copyright Act 1956

##### **An Ordinance relating to copyright**

4 of 1917  
4 of 1918  
(Cap. 62 of 1952)

*Commencement: 13th June 1917*

L.N. 16/72  
(Cap. 60 of  
1973)

##### Short title

1. This Ordinance may be cited as the Copyright Ordinance.

##### Penalties for dealing with infringing copies, etc.

2. (1) If in Tuvalu any person knowingly-

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists; or
- (b) sells or lets for hire, or by way of trade exposes or offers for sale or hire any infringing copy of any such work; or
- (c) distributes infringing copies of any such work either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (d) by way of trade exhibits in public any infringing copy of any such work; or
- (e) imports for sale or hire any infringing copy of any such work;

he shall be liable to a fine of \$4 for every copy dealt with in contravention of this section, but not exceeding \$100 in respect of the same transaction; or in the case of a second or subsequent offence either to such fine or to imprisonment for 2 months.

(2) If any person knowingly makes, or has in his possession, any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be liable to a fine of

(3) The court before which any such proceedings are taken may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, be destroyed or delivered up to the owner of the copyright or otherwise dealt with as the court may think fit.

Application of section 22 of the Copyright Act 1956.

3. For the purpose of the application of section 22 of the Copyright Act 1956 to the importation into Tuvalu of works made out of Tuvalu –

(1) The Minister shall perform the duties and may exercise the powers thereby imposed on or given to the Commissioners of Customs and Excise of the United Kingdom.

(2) Regulations made under that section may provide that notices given to the said Commissioners if communicated by them to the Minister shall be deemed to have been given by the owner of the copyright to the Minister.

(3) That section shall have effect as if it formed part of the Customs Ordinance.

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NOTE: Section 22 of the Copyright Act 1956 of the United Kingdom reads as follows-

22. Provision for restricting importation of printed copies

(1) The owner of the copyright in any published literary, dramatic or musical work may give notice in writing to the Commissioners of Customs and Excise (in this section referred to as "the Commissioners")-

(a) that he is the owner of the copyright in the work, and

(b) that he requests the Commissioners, during a period specified in the notice, to treat as prohibited goods copies of the work to which this section applies:

Provided that the period specified in a notice under this subsection shall not exceed five years and shall not extend beyond the end of the period for which the copyright is to subsist.

(2) This section applies, in the case of a work, to any printed copy made outside the United Kingdom which, if it had been made in the United Kingdom, would be an infringing copy of the work.

(3) Where a notice has been given under this section in respect of a work, and has not been withdrawn, the importation into the United Kingdom, at a time before the end of the period specified in the notice, of any copy of the work to which this section applies shall, subject to the following provisions of this section, be prohibited:

(4) The Commissioners may make regulations prescribing the form in which notices are to be given under this section, and requiring a person giving such a notice, either at the time of giving the notice or at the time when the goods in question are imported, or at both those times, to furnish the Commissioners with such evidence, and to comply with such other conditions (if any), as may be specified in the regulations; and any such regulations may include such incidental and supplementary provisions as the Commissioners consider expedient for the purposes of this section.

(5) Without prejudice to the generality of the last preceding subsection, regulations made under that subsection may include provision for requiring a person who has given a notice under subsection (1) of this section, or a notice purporting to be a notice under that subsection,-

- (a) to pay such fees in respect of the notice as may be prescribed by the regulations;
- (b) to give to the Commissioners such security as may be so prescribed, in respect of any liability or expense which they may incur in consequence of the detention, at any time within the period specified in the notice, of any copy of the work to which the notice relates, or in consequence of anything done in relation to a copy so detained;
- (c) whether any such security is given or not, to keep the Commissioners indemnified against any such liability or expense as is mentioned in the last preceding paragraph.

(6) For the purposes of section 11 of the Customs and Excise Act 1952 (which relates to the disposal of duties), any fees paid in pursuance of regulations made under this section shall be treated as money collected on account of customs.

(7) Notwithstanding anything in the Customs and Excise Act 1952, a person shall not be liable to any penalty under that Act (other than forfeiture of the goods) by reason that any goods are treated as prohibited goods by virtue of this section.