

**Reprint
as at 29 September 2003**



**Copyright (Border Protection)
Regulations 1994**
(SR 1994/309)

Catherine A Tizard, Governor-General

Order in Council

At Wellington this 19th day of December 1994

Present:
The Hon Doug Kidd presiding in Council

Pursuant to section 234 of the Copyright Act 1994, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

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Regulations

1 Title and commencement

- (1) These regulations may be cited as the Copyright (Border Protection) Regulations 1994.
- (2) These regulations shall come into force on 1 January 1995.

2 Interpretation

In these regulations, **the Act** means the Copyright Act 1994.

3 Form of notice under section 136(1)

- (1) Every notice under section 136(1) of the Act shall be in the form set out in the Schedule of these regulations.
- (2) *[Revoked]*

Regulation 3(2): revoked, on 1 October 1996, by regulation 2 of the Copyright (Border Protection) Regulations 1994, Amendment No 1 (SR 1996/240).

4 Evidence in support of claim

- (1) Every person giving a notice under section 136(1) of the Act shall furnish to the chief executive evidence in support of the claim that an item is a work, or items are works, as the case may be, in which the person owns the copyright.
- (2) The chief executive may direct that such evidence be furnished at the time the notice is given or at any subsequent time.

Regulation 4(1): amended, on 1 October 1996, by regulation 3 of the Copyright (Border Protection) Regulations 1994, Amendment No 1 (SR 1996/240).

Regulation 4(1): amended, on 1 October 1996, by section 289(2) of the Customs and Excise Act 1996 (1996 No 27).

Regulation 4(2): amended, on 1 October 1996, by section 289(2) of the Customs and Excise Act 1996 (1996 No 27).

5 Notice of transmission and other matters

Every person giving a notice under section 136(1) of the Act must inform the chief executive, in writing, of—

- (a) any transmission of the copyright in the work or works to which the notice relates:
- (b) any change in the particulars contained in the notice or in any evidence given to the chief executive in support of the claim that an item is a work, or items are works, as the case may be, in which the person owns the copyright.

Regulation 5: amended, on 1 October 1996, by section 289(2) of the Customs and Excise Act 1996 (1996 No 27).

Regulation 5(a): amended, on 1 October 1996, by regulation 4(1) of the Copyright (Border Protection) Regulations 1994, Amendment No 1 (SR 1996/240).

Regulation 5(b): amended, on 1 October 1996, by regulation 4(2) of the Copyright (Border Protection) Regulations 1994, Amendment No 1 (SR 1996/240).

Regulation 5(b): amended, on 1 October 1996, by section 289(2) of the Customs and Excise Act 1996 (1996 No 27).

6 Security and indemnity

- (1) Every person giving a notice under section 136(1) of the Act shall give security or an indemnity or both security and an indemnity to such persons, of such amount, and on such terms and conditions as may be determined by the chief executive.
- (2) The chief executive may direct that security or an indemnity or both security and an indemnity be given at the time the notice is given or at any subsequent time.
- (3) Every person to whom an item is to be or has been released from detention under section 140(1) of the Act shall give security or an indemnity or both security and an indemnity to such persons, of such amount, and on such terms and conditions as may be determined by the chief executive.

Regulation 6(1): amended, on 1 October 1996, by section 289(2) of the Customs and Excise Act 1996 (1996 No 27).

Regulation 6(2): amended, on 1 October 1996, by section 289(2) of the Customs and Excise Act 1996 (1996 No 27).

Regulation 6(3): amended, on 1 October 1996, by section 289(2) of the Customs and Excise Act 1996 (1996 No 27).

7 Agents

- (1) Notice under section 136(1) of the Act may be given to the chief executive by a duly appointed agent of the owner of the copyright in the work or works.
- (2) Where the chief executive is required under Part 7 of the Act to advise, or cause a notice to be served on, any person who has given a notice under section 136(1) of the Act, that advice or notice may be given to that person's duly appointed agent.

Regulation 7(1): amended, on 1 October 1996, by regulation 5 of the Copyright (Border Protection) Regulations 1994, Amendment No 1 (SR 1996/240).

Regulation 7(1): amended, on 1 October 1996, by section 289(2) of the Customs and Excise Act 1996 (1996 No 27).

Regulation 7(2): amended, on 1 October 1996, by section 289(2) of the Customs and Excise Act 1996 (1996 No 27).

8 Disposal of forfeited goods

- (1) Pirated copies forfeited to the Crown under section 141A of the Act must be sold, destroyed, or otherwise disposed of in the manner that the chief executive directs.
- (2) However, the chief executive must not direct a step to be taken under subclause (1) without first having regard to the need to ensure that the step to be taken does not adversely affect the owner of the copyright in the work or the owner's licensee.

Regulation 8: added, on 29 September 2003, by regulation 3 of the Copyright (Border Protection) Amendment Regulations 2003 (SR 2003/212).

Schedule

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Form of notice under section 136(1) of Copyright Act 1994

Schedule: substituted, on 29 September 2003, by regulation 4 of the Copyright (Border Protection) Amendment Regulations 2003 (SR 2003/212).

Notice requesting detention of pirated copies

To the chief executive of the New Zealand Customs Service
[*State full name of the owner of the copyright*] of [*state the address of the owner of the copyright*] claims that [*describe the work in which copyright is claimed*] is a work in which [*state full name of the owner of the copyright*] owns the copyright.

The title of the work is [*state the title under which the work has been published or attach a list of works as a schedule*].

The full name of the author is [*if the work is of unknown authorship, insert words to that effect. If the author is a company, insert the name of the company, and the division within the company, that produced the work*].

In relation to a published edition, the full name of the publisher is [*full name*].

*The author is still living.

†The year of the death of the author was [*state the year of death of the author or the last surviving author*].

The year in which the work was made was [*date*].

In relation to a sound recording or film, the year in which the work was made and the year in which the work was made available to the public by an authorised act was [*date*].

The country and year of first publication of the work was [*state country and year and, if there was simultaneous publication in more than 1 country, state all countries*].

The status of the author or publisher at the time of first publication was [*state the citizenship and domicile or residence of the author of the work or the publisher of the edition or, if the author or publisher is a company, the name of the country where the company is incorporated*].

The chief executive of the New Zealand Customs Service is requested to detain any pirated copies of [*describe the work in which*

copyright is claimed] that are in, or at any time come into, the control of the New Zealand Customs Service.

This notice is in force for the period [*insert a period that is not longer than 5 years from the date of the notice or, if the copyright in the work will expire within 5 years from the date of the notice, not longer than the period for which the copyright will last*].

*Delete if the work is of unknown authorship or if no author is still living.

†Delete if the author is still living or, if the work is a work of joint authorship, if one of the authors is still living.

Details of the person and contact address for the service of any notice are:

Name:

Business/residential address:

Postal address:

Telephone No:

Facsimile No:

Email:

Date:

Signature:

Marie Shroff,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 21 December 1994.

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Notes

1 *General*

This is a reprint of the Copyright (Border Protection) Regulations 1994. The reprint incorporates all the amendments to the regulations as at 29 September 2003, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint
(most recent first)***

Copyright (Border Protection) Amendment Regulations 2003 (SR 2003/212)
Copyright (Border Protection) Regulations 1994, Amendment No 1 (SR 1996/240)
Customs and Excise Act 1996 (1996 No 27): section 289(2)
