

**INTELLECTUAL PROPERTY (BORDER ENFORCEMENT)  
ACT 2018**

**No. 34 of 2018.**

An Act to amend the Copyright Act (Chapter 63 of the 2006 Revised Edition), the Geographical Indications Act 2014 (Act 19 of 2014), the Registered Designs Act (Chapter 266 of the 2005 Revised Edition) and the Trade Marks Act (Chapter 332 of the 2005 Revised Edition), to enhance border enforcement measures for intellectual property rights, and to make related amendments to certain other Acts.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

**Short title and commencement**

1. This Act is the Intellectual Property (Border Enforcement) Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

**PART 1****AMENDMENTS TO COPYRIGHT ACT***Division 1 — Phase 1 Amendments***New section 140AA**

2. The Copyright Act (Cap. 63) is amended by inserting, immediately after section 140A, the following section:

**“Delegation of Director-General’s powers**

**140AA.** The Director-General may delegate to a senior officer of customs (within the meaning of section 3(1) of the Customs Act) any of the powers of the Director-General under this Division (except the power of delegation conferred by this section), subject to such conditions or restrictions as the Director-General may determine.”.

**Amendment of section 140C**

3. Section 140C of the Copyright Act is amended —

- (a) by deleting the words “or expense it is likely to incur as a result of the seizure of the copies” in paragraph (a) and substituting the words “or reasonable expense it is likely to incur in relation to the seizure, storage and disposal of the copies,”; and
- (b) by inserting, immediately after the word “seizure” in the section heading, the words “, storage and disposal”.

**New sections 140EA and 140EB**

4. The Copyright Act is amended by inserting, immediately after section 140E, the following sections:

**“Persons bound to give information or produce documents**

**140EA.**—(1) At any time after copies of copyright material have been seized under section 140B(7), an authorised officer or a senior authorised officer who has reasonable cause to believe that a person has any information or document that the officer considers is relevant for any of the purposes in subsection (2), may require that person to provide to the officer that information or document at a time and place specified by the officer.

(2) The purposes mentioned in subsection (1) are —

- (a) to enable the Director-General to satisfy a request under section 140EB (whether or not such a request has actually been received);
- (b) to enable any action to be taken under this Division in relation to future shipments of goods; and
- (c) for a statistical or research purpose.

(3) A person who —

- (a) without reasonable excuse, fails to comply with a requirement under subsection (1); or
- (b) in purported compliance with such requirement, knowingly or recklessly provides any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 6 months or to both.

(4) A person is not excused from providing any information or document in compliance with a requirement under subsection (1) on the ground that it might tend to incriminate the person.

(5) Where the person claims, before providing any information or document pursuant to a requirement under subsection (1), that it might tend to incriminate the person, then the information or document is not admissible in evidence

against the person in criminal proceedings other than proceedings for an offence under subsection (3).

(6) No information or document that is provided pursuant to a requirement under subsection (1) may be published, or communicated or disclosed to any person, except where and to the extent it is necessary for a purpose in subsection (2).

(7) A person who contravenes subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 12 months or to both.

### **Information on import**

**140EB.**—(1) After copies of copyright material have been seized under section 140B(7), the Director-General may, upon the request of the objector, and if the Director-General is satisfied that the information is necessary to enable the objector to institute an action for infringement of copyright, give the objector the name and contact details of any person connected with the import of the seized copies.

(2) Subsection (1) applies despite any duty of confidentiality imposed by the common law on the Director-General or a person to whom the Director-General has delegated the power under that subsection.”.

### **Amendment of section 140G**

**5.** Section 140G of the Copyright Act is amended —

- (a) by inserting, immediately after the words “by written notice” in subsection (1), the words “and the giving of the prescribed written undertakings”; and
- (b) by deleting the words “gives such a notice” in subsection (3) and substituting the words “satisfies the requirements of subsection (1)”.

**Amendment of section 140K****6. Section 140K of the Copyright Act is amended —**

- (a) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) If —

- (a) the Director-General gives to the importer a written notice of the release of seized copies; and
- (b) the importer fails to take custody of the seized copies within the period specified in the notice,

the Director-General may dispose of the copies —

- (i) in the manner prescribed by regulations; or
- (ii) if no manner of disposal is so prescribed, as the Director-General directs.”; and

- (b) by deleting the words “ordered to be forfeited” in the section heading.

**Amendment of section 140LA****7. Section 140LA of the Copyright Act is amended —**

- (a) by inserting, immediately after subsection (2), the following subsections:

“(2A) At any time after copies of copyright material have been detained under subsection (1)(a), an authorised officer or a senior authorised officer who has reasonable cause to believe that a person has any information or document that the officer considers is relevant for any of the purposes in subsection (2B), may require that person to provide to the officer that information or document at a time and place specified by the officer.