

P.U.(A) 379/87
**COPYRIGHT (LICENCE TO PRODUCE AND PUBLISH IN THE NATIONAL LANGUAGE A
TRANSLATION OF A LITERARY WORK) REGULATIONS 1987**

Preamble

IN exercise of the powers conferred by section 35 of the Copyright Act 1987 [Act 332], the Minister makes the following regulations:

Regulation 1. Citation and commencement.

These Regulations may be cited as the **Copyright (Licence to Produce And Publish In The National Language A Translation Of A Literary Work) Regulations 1987** and shall come into force on the 2nd December 1987.

Regulation 2. Interpretation.

In these Regulations, unless the context otherwise requires—

"Act" means the Copyright Act 1987;

"Chairman" means the chairman of the Copyright Tribunal appointed under section 29 of the Act;

"export" means to send or cause to be sent out of Malaysia by whatever means;

"member" means any member of the Tribunal appointed under section 29 of the Act;

"national language" means the national language of Malaysia;

"produce", in relation to a translation in the national language of a literary work written in any other language, means the making of one or more copies of the translated work in any form or version; and "reproduce" shall be construed accordingly;

"publish", in relation to a translation in the national language of a literary work written in any other language, means the making of one or more copies of the translated work available to the public, whether by sale or otherwise.

Regulation 3. Secretariat to the Tribunal.

(1) There shall be a Secretariat to the Tribunal which shall be the Ministry of Trade and Industry.

(2) The Secretariat shall assist the Tribunal in any matter relating to the functions of the Tribunal.

Regulation 4. Procedure for application.

(1) An application for a licence under section 31 (1) of the Act shall be in the form set out in Part I of the Schedule.

(2) A separate application shall be made in respect of each literary work.

(3) Each application shall be in the triplicate and shall be served by delivering it in person or by sending it by registered post to the Secretariat.

(4) A fee of one hundred ringgit in respect of each application shall be paid to the Secretariat at

the time the application is made.

(5) Upon receipt of the application, the Secretariat shall -

- (a) inform the Chairman immediately of such receipt;
- (b) process the application; and
- (c) upon being instructed by the Chairman, call for a meeting of the Tribunal.

Regulation 5. Notice to the owner.

(1) When any application has been made under regulation 4, the Chairman shall, as soon as possible, serve or cause to be served a notice of the application on the owner of the copyright in the work to which the application relates, wherever practicable.

(2) Where it is not practicable to serve a notice on the owner, the Chairman shall give or cause to be given a notice of the application in the *Government Gazette* or in at least two local daily newspapers as he thinks fit.

(3) The notice to the owner or the notification in the *Government Gazette* or in the newspapers shall be in the form set out in Part II or Part III of the Schedule, as the case may be.

Regulation 6. Tribunal to hold inquiry.

(1) The Tribunal may hold as many inquiries as it thinks necessary in respect of each application:

Provided that the Tribunal shall not hold any inquiry in respect of any application before the expiry of at least three months from the date of the service of notice to the owner or in the case where notice to the owner is made by way of notification in the *Government Gazette* or in the newspapers, or both, before the expiry of at least three months from the date the notification is published.

(2) Notwithstanding sub-regulation (1), if after an application has been received in respect of a work, other applications are received in respect of the same work and such applications are received before the expiry of three months from the date of the service of the notice or the notification in the *Government Gazette* or newspapers, as the case may be, in respect of the application first received, all the applications shall be considered together.

Regulation 7. Time and place of inquiries.

The Tribunal shall hold its inquiries at such time and place as the Chairman shall direct.

Regulation 8. Procedure at meetings of the Tribunal.

(1) The Tribunal shall keep records of its proceedings in the form of minutes.

(2) If there is an equality of votes on any question to be determined by the Tribunal the Chairman shall have the casting vote in addition to his deliberative vote.

(3) Subject to the Act and these Regulations, the Tribunal shall regulate its own procedure at meetings.

Regulation 9. Powers of the Tribunal at inquiries.

Without prejudice to section 33 of the Act, the Tribunal shall have the following powers in the exercise of its functions at the inquiries:

- (a) to require any person to attend any meeting of the Tribunal to give evidence or produce any document or any other thing in his possession and to examine him as a witness;
- (b) to require the evidence of any witness to be made on statutory declaration or in any other manner as the Chairman thinks fit.
- (c) subject to regulation 6, to hear and determine any application referred to it in such manner as may be determined by the Chairman, notwithstanding the failure of any person to submit any written statement, information or any other evidence required by the Tribunal within such time as may be prescribed by the Chairman or the absence of any party to the dispute who has been served with a notice to appear.

Regulation 10. Applicant to pay cost.

The applicant shall pay the cost of any inquiry or proceedings before the Tribunal as the Tribunal may determine.

Regulation 11. Licences.

The licence granted by the Tribunal shall be in the form set out in Part IV of the Schedule.

Regulation 12. Applicant to produce and publish within period specified.

The applicant to whom the licence is granted shall produce and publish the translation within such period specified in the licence.

Regulation 13. Extension of Period.

The Tribunal may, on the application of the licensee and after giving notice to the owner, if it is satisfied that the licensee may for sufficient reasons be unable to produce and publish the translation within the period specified in the licence, extend such period.

Regulation 14. Cancellation of licence.

The Tribunal may, after giving the licensee an opportunity to be heard, cancel the licence on any of the following grounds:

- (a) that the licensee has failed to produce and publish the translation within the time specified in the licence or within the extended time;
- (b) that the licence was obtained by fraud or misrepresentation as to any essential fact; or
- (c) that the licensee has contravened any of the terms and conditions of the licence.

Regulation 15. Maintenance of records.

The Tribunal shall maintain records of the licences issued in a Register.

Regulation 16. Determination of royalties.

In determining the rate of royalties payable to the owner, the Tribunal shall take into consideration the following:

- (a) the proposed retail price of a copy of the translation of the work;
- (b) prevailing standards of royalties with regard to translation of works;
- (c) the duration of the licence; and
- (d) such other matters as maybe considered relevant by the Tribunal.

Regulation 17. Overdue payments.

Any overdue payment in respect of royalties may be recovered as a debt due to the owner.

SCHEDULE

PART I
(Regulation 4 (1))

(Application Form for A Licence To Produce and Publish in The
National Language A Translation of A Literary Work)

The Chairman,
Copyright Tribunal,
Secretariat of the Copyright Tribunal,
Ministry Of Trade And Industry
.....

*I/We of
hereby apply to the Copyright Tribunal for a licence to produce and publish a translation in the
national language of the literary work specified in the Appendix hereto.

(*delete whichever is not applicable)

2 *I/We hereby undertake to abide strictly by the terms and conditions of the licence, if granted.

Dated thisday of 20

.....
(Signature)

Nama.

PARTICULARS OF APPLICATION

1. Name and address of the applicant
2. Nationality of the applicant
3. Qualification of the applicant to produce and publish the translation.
4. Period to be licensed. to
5. Number of Copies proposed to be published
6. Estimated cost of production and publication.
7. Proposed retail price per copy
8. Rate of royalty which the applicant considers reasonable to be paid to the owner
9. Means of the applicant for payment of royalty
10. Name, address and nationality of the person competent to translate the work
11. (a) Has the work been translated and published in the national language within one year after its first publication?
- (b) If so, is it out of print?
12. Has the applicant been denied authorization by the owner?.
13. Steps taken by the applicant to obtain authorization? (Enclosed certified true copies of correspondence, if any)
14. Has the author of the work withdrawn from circulation copies of the work?
15. Has the author of the work published an earlier translation in the national language?
16. What is the purpose of the translation?

STATUTORY DECLARATION

*I/We
do solemnly and sincerely declare that the contents of this notice are true, and *I/We make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act 1960.

Subscribed and solemnly declared }
by..... }
the above named }
at }
in the State of }
thisday of19..... }

Before me,

.....
(Signature of Commissioner for Oaths)

APPENDIX

Title of work

Description of work.....

Full name and address of author/authors.....

Whether author/authors alive (if not, date of death)

Country and date of first publication of work

Date of first publication in Malaysia.....

Nationality of author / authors.....

Name and address of owner / owners.....

(*delete whichever is not applicable)

PART II
(Regulation 5 (3))

(Notice To The Owner)

To.....
.....
.....

Take notice that an application, a copy of which is enclosed herewith, for a licence to translate in the national language the work specified therein has been received by the Copyright Tribunal of Malaysia and that such licence shall be granted if all the requirements of section 31 of the Copyright Act 1987 have been satisfied and there is no objection received from you or any other interested party within a period of three months from the date of this notice.

Dated this. day of 20.

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(Signature)
(The Chairman, Copyright Tribunal of Malaysia)

PART III
(Regulation 5 (3))

(Notice To The Owner)

Take notice that an application for a licence to produce and publish in the national language the work specified herein has been received by the Copyright Tribunal of Malaysia and that such licence shall be granted if all the requirements of section 31 of the Copyright Act 1987 have been satisfied and there is no objection received from the owner and any other interested party within a period of three months from the date of this notice.

2. Objection to the approval for such licence may be made in writing to the Secretariat to the Tribunal.

Title of Work
Description of Work
Name of Author

Dated this. day of 19

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(Signature)
(The Chairman, Copyright Tribunal of Malaysia)

PART IV
(Regulation 11)

COPYRIGHT ACT 1987

Name Licence No
Address
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is hereby licensed by the Copyright Tribunal to produce and publish the translation in the national language of the literary work written in.namely,

2. This licence is valid with effect fromuntil
(both dates inclusive).

3. The licensee shall pay to the owner of the copyright in the work royalty at a rate of
. . . . for every copy sold to the public.

.....
(Signature)
(The Chairman, Copyright Tribunal Malaysia)

Dated this day of 19.

Made the 5th November 1987.
[B. PGK. 5012 Jld. 6; PN. (PU²) 457.]

DATIN PADUKA RAFIDAH BTE ABDUL AZIZ,
Minister of Trade and Industry