

GOVERNMENT NOTICE NO. 1

COPYRIGHT ACT

(CAP. 49:03)

COPYRIGHT (PRODUCTION, IMPORTATION AND DISTRIBUTION OF
SOUND AND AUDIO-VISUAL RECORDINGS) LICENSING
REGULATIONS, 2007.

IN EXERCISE of the powers conferred by section 56 of the Copyright Act, I, CALISTA CHIMOMBO, Minister of Tourism, Wildlife and Culture, being the Minister responsible for copyright matters, make the following Regulations—

1. These Regulations may be cited as the Copyright (Production, Importation and Distribution of Sound and Audio-Visual Recordings) Licensing Regulations, 2007.

2. In these Regulations, unless the context otherwise requires—
“hologram” means an adhesive label issued by the Society.

3. No person shall produce, distribute or import for distribution sound recordings, audio-visual recordings or audio works in Malawi except under a licence issued by the Society and as set out in Parts V, VI, VII, VIII and IX of the First Schedule.

4. A hologram shall be affixed to each and every sound recording, audio-visual recording or audio works which is distributed or offered or otherwise exposed to the public for distribution by way of sale, hire, rental or otherwise within Malawi.

5. The hologram shall be delivered exclusively by the Society after verification that the sound recording, audio-visual recording or audio works has been produced and/or published in Malawi or imported into Malawi without infringing any copyright granted under the Act.

6. Any sound recording, audio-visual recording or audio works without a hologram and which is imported, distributed, offered or exposed to the public for sale, rental or otherwise within Malawi shall be considered as a copy infringing copyright granted under the Act and shall be seized by the Society, a police officer or an officer of the Department of Customs and Excise.

7.—(1) The Society shall retain the seized infringing copies for a period of up to sixty (60) days from the date of the seizure.

(2) The owner of the seized infringing copies may submit an objection against the seizure to the Society within the sixty (60) days giving reasons for the objection.

Destruction of
recordings

8. The Society under the supervision of officers from the Department of Customs and Excise or Malawi Police Service, shall destroy the sound recording, audio-visual recording or audio works seized and kept for more than sixty (60) days where—

(a) no person raises an objection against the seizure of the recordings; or

(b) the Society deems that despite the objection, the seized recordings are infringing copies.

Seizure by a
customs
officer

9. A customs officer shall seize or impound or retain any sound recording, audio-visual recording or audio works imported into Malawi exceeding a quantity of three (3) copies of the same recording until such importation has been consented to or verified and authenticated by the Society.

Clearance of
application
form
First
Schedule

10. Every application to clear imported pre-recorded sound recordings, audio-visual recording or audio works shall be made to the Society in the form set out in Part I of the First Schedule hereto.

Authorization
Certificate
First
Schedule

11. The Society shall issue an authorization certificate in the form set out in Part II of the First Schedule subject to—

(a) evidence being given that the recordings are or shall be produced in conformity with the Act and the regulations made thereunder;

(b) the applicant shall affix a hologram to each recording offered for sale, hire or rental;

(c) the levy for the holograms acquired by the applicant shall be paid to the Society.

Application
to purchase
holograms
First
Schedule

12. Every application to purchase a hologram shall be made in the form set out in Part III of the First Schedule hereto.

Approval to
purchase
holograms
First
Schedule

13. The Society shall give the approval to purchase holograms in the form set out in Part IV of the First Schedule hereto.

Application
for importa-
tion Licence
First
Schedule

14. Every application for importation licence shall be made to the Society in the form set out in Part V of the First Schedule hereto.

Importation
Licence
First
Schedule

15. The Society shall issue importation licence in the form set out in Part VI of the First Schedule hereto.

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| 16. Every application for a production licence shall be made to the Society in the form set out in Part VII of the First Schedule hereto. | Application
for a
production
licence
<i>First
Schedule</i> |
| 17. The Society shall issue a production licence in the form set out in Part VIII of the First Schedule hereto. | Production
licence
<i>First
Schedule</i> |
| 18. Every application for a distribution licence shall be made to the Society in the form set out in Part IX of the First Schedule hereto. | Application
form for
distribution
licence
<i>First
Schedule</i> |
| 19. The Society shall issue a distribution licence in the form set out in Part X of the First Schedule hereto. | Distribution
licence
<i>First
Schedule</i> |
| 20. A hologram shall be purchased at a price set out in the Second Schedule hereto. | Cost of
hologram
<i>Second
Schedule</i> |
| 21. Any person who contravenes these Regulations shall be guilty of an offence and if convicted liable to a fine of K1,000 and to imprisonment for three (3) months. | Offence |
| 22. In any legal proceedings, the Society shall, unless proved contrary, be presumed to represent all national and foreign authors and other copyright holders. | Legal
proceedings |
| 23. The Copyright (Production and Distribution of Sound Recordings) Regulations, 2003, are revoked. | Revocation of
GN. 7 of 2003 |

FIRST SCHEDULE

(reg. 10)

PART I

COPYRIGHT ACT

(CAP. 49:03)

FORM A

APPLICATION FOR CLEARANCE OF IMPORTED SOUND RECORDINGS, AUDIO-VISUAL
RECORDINGS OR AUDIO WORKS FROM THE CUSTOMS AND EXCISE DEPARTMENT

1. Name of Importer/Applicant:
2. Address:
- Telephone Number: Fax:

- 3.—(1) Title of work(s) for which clearance is being sought:
- (2) Quantity of material being imported:
4. Name of author(s) or work:
- 5.—(1) Name of producer of work:
- (2) Address:
- 6.—(1) Has importer obtained the authorization of the producer or his authorized representative to import the said work(s)? Yes/No;
- (2) If yes please attach proof of authorization.
7. Declaration:
- I/We declare on my/our honour that the information given above is true to the best of my/our knowledge and that any misinformation provided by me/us renders my/our application null and void.

Declared at: on 20.....

.....
Signature of Applicant

NOTE:

IMPORTER SHOULD HAVE—

- (1) Genuine hologram of the country of origin of the imported works affixed on to the work; or
- (2) Authorization from the producer of the work to import.

PART II
 COPYRIGHT ACT
 (CAP. 49:03)

(reg. 11)

FORM B

AUTHORIZATION CERTIFICATE

Approval is hereby given to of
 to clear the sound recordings, audio-visual
 recordings or audio works entitled and
 produced by of from the Customs
 and Excise Department.

.....
Copyright Administrator

.....
Date

NOTE:

Clearance is for specific works only and is not applicable to any work not mentioned in the clearance.

PART III
COPYRIGHT ACT
(CAP. 49:03)

(reg. 12)

FORM C

APPLICATION TO PURCHASE HOLOGRAM FROM THE COPYRIGHT SOCIETY OF MALAWI

1. Name of Importer/Applicant:
2. Address:
Telephone Number: Fax:
3. Number of holograms required:
4. Name of author(s) of work:
5. (1) Has importer obtained the authorization of the producer or his authorized representative to import the said work(s): Yes/No.
(2) If yes please attach evidence.
6. Declaration:
I/We declare on my/our honour that the information given above is true to the best of my/our knowledge and that any misinformation provided by me/us renders my/our application null and void.

Declared at on 20.....

Signature of Applicant

NOTE:

1. Genuine hologram of the country of origin of the imported works affixed on to the works; or
2. Authentication from the producer of the work to import the work(s) for which this approval is being sought.

PART IV
COPYRIGHT ACT
(CAP. 49:03)

(reg. 13)

FORM D

APPROVAL TO PURCHASE HOLOGRAMS FROM THE COPYRIGHT SOCIETY OF MALAWI

Approval is hereby given to: of
..... to purchase holograms

numbered to in respect of
the sound recordings, audio-visual recordings or audio works as detailed hereunder:

	Serial No.	Title	Composer	Producer	Quantity	For Official Use
1.						
2.						
3.						
4.						
5.						

For Official Use

Checked by:

Date:

Payment received by:

Approved by:

NOTE:

Holograms are not transferable from one work to the other without the express permission of the Copyright Administrator.

PART V

(reg. 14)

COPYRIGHT ACT

(CAP. 49:03)

FORM E

APPLICATION FOR IMPORTATION LICENCE

1. Name of Importer:
2. Postal Address:
3. Physical Address:
4. Telephone Number: Fax:
5. Name of Foreign Supplier:
6. Postal Address:
7. Physical Address:
8. Telephone Number: Fax:
9. E-mail Address *(If there are several suppliers give their details on a separate sheet).*

10. Declaration:

I/We declare that the information given above is true to the best of my/our knowledge and that any misinformation provided by me/us renders my/our application null and void.

Declared at on 20.....

.....
Signature of Applicant

For Official Use Only

Checked by:

Date:

Approved by:

PART VI
COPYRIGHT ACT
(CAP. 49:03)

(reg. 15)

IMPORTATION LICENCE

FORM F

Name: of is hereby
licensed to import pre-recorded sound recordings or audio-visual recordings or audio works
subject to conditions set out at the back of the licence.

This licence may be revoked if any one of the conditions are not adhered to. Copies
imported in contravention of the conditions shall be considered infringing copies and
subject to seizure as provided for in the Copyright Act.

The licence is valid from:

Amount: K.....

Amount in words:

.....
Copyright Administrator

CONDITIONS OF THE IMPORTATION LICENCE

- (i) Production of the imported sound recordings, audio-visual or audio works has been done under authorization of owner or his authorized representative in the country of production.
- (ii) A royalty of 10 per cent at an ordinary selling price has been paid subject to a minimum set by the Society.

- (iii) An adhesive label has been affixed on each copy imported before the same is offered for sale.

PART VII
COPYRIGHT ACT
(CAP. 49:03)

(reg. 16)

FORM G

APPLICATION FOR A PRODUCTION LICENCE

1. Name of Applicant:
 2. Postal Address:
 3. Physical Address:
 4. Telephone Number: Fax :
 5. Music Production Format: Tape _____ CD _____ DAT _____
(Tick where applicable)
 6. Capacity of equipment:
- Cassettes and CDs (Tick where applicable)
- 0-10,000 _____
- 10,000-20,000 _____
- Above 20,000 _____

7. Declaration:

I/We declare that the information given above is true to the best of my/our knowledge and that any misinformation provided by me/us renders my/our application null and void.

Declared at on 20.....

.....
Signature of Applicant

For Official Use Only

Checked by:

Date:

Payment received by:

Approved by:

PART VIII
COPYRIGHT ACT
(CAP. 49:03)

(reg. 17)

FORM H

PRODUCTION LICENCE

Name: of is hereby licensed to undertake sound recordings, audio-visual recordings or audio works production and manufacturing subject to the conditions contained at the back of the licence.

This licence is valid from: to

Amount: K

Amount in words:

.....
Copyright Administrator

CONDITIONS FOR THE GRANT OF THE LICENCE

- (i) Each instance of production and manufacturing has been subjected to specific authorization agreement.
- (ii) A mechanical royalty has been paid at 10 per cent of the ordinary retail selling price but subject to a minimum set by the Society from time to time.
- (iii) An adhesive label acquired from the Society has been affixed on each copy produced before the same is offered for sale.

This licence may be revoked if any one of the above three conditions are not adhered to. Copies produced in contravention of the above-conditions shall be considered infringing copies and subject to seizure as provided for in the Copyright Act (Cap. 49:03).

PART IX
COPYRIGHT ACT
(CAP. 49:03)

(reg. 18)

FORM I

APPLICATION FOR A DISTRIBUTION LICENCE

- 1. Name of Distributor:
- 2. Postal Address:
- 3. Physical Address:
- 4. Telephone Number: Fax:

SECOND SCHEDULE
COPYRIGHT ACT
(CAP. 49:03)
COST OF HOLOGRAM

(reg. 20)

One Hologram	K5.00
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Made this 4th day of November, 2007.

(FILE NO. CSM 1/4)

C. CHIMOMBO
Minister of Tourism, Wildlife and Culture