

Extraordinary



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<i>S.I. No.</i>	<i>Short Title</i>	<i>Page</i>
66	Copyright (Optical Discs Plants) Regulation 2006 .. . . . B 697 - 711	

**COPYRIGHT ACT  
(CAP 68 LFN 1990 AS AMENDED)**

**COPYRIGHT (OPTICAL DISCS PLANTS) REGULATIONS, 2006**

*[15<sup>th</sup> December 2006]* Commencement

**In pursuance of the powers vested in it under section 37(4) of the Copyright Act 1990 as amended, the Nigerian Copyright Commission, with the prior consent of the Honourable Attorney-General of the Federation and Minister of Justice hereby makes the following Regulations.**

1. (1) No person shall manufacture optical discs or production parts in Nigeria unless such a person is duly registered by the Commission. Control of Production and Registration of Manufacturers First Schedule
- (2) An application for registration as a manufacturer of optical discs or production parts which shall be made to the Commission in Form A in the First Schedule to these Regulations shall be accompanied with any fees as may be prescribed from time to time by the Commission.
- (3) Every applicant for registration shall enter into an undertaking to comply with the provisions of these Regulations and not to violate any copyright, neighbouring right or any other intellectual property right.
- (4) Upon being registered, the Commission shall issue to the applicant a personal identification number and a certificate containing the information in the Third Schedule to these Regulations. Third Schedule
- (5) A registration under these Regulations shall be valid for a period of one year and thereafter renewable annually.
- (6) The Commission shall maintain a register of all persons registered under these Regulations to carry on the business of manufacturing of optical discs or production parts in any place in Nigeria.
- (7) No person registered under these Regulations shall, manufacture optical discs or production parts in any other place in Nigeria other than the premises specified in the registration certificate issued in respect of such production.
2. (1) Save as may be authorized under a statute, no person shall export from or import into Nigeria, any optical disc, production part, or manufacturing equipment, without the prior approval, as the case may be, granted by the Commission. Control of Imports and Exports.
- (2) An application for approval which shall be made to the Commission in Form B in the First Schedule to these Regulations shall be accompanied with fees as prescribed in the fourth schedule to these Regulations. First Schedule,
- (3) A separate approval shall be required in respect of each exportations or importation of optical discs, and each importation or exportation of production parts, or equipment. Fourth Schedule.
- (4) Upon being granted approval, the Commission shall issue to the

Third  
Schedule

Applicant a personal identification number and a certificate containing the information in the Third Schedule to these Regulations and such certificate shall be for the purpose of that transaction only.

Commercial  
Optional  
Duplication.

- 3.** No person shall carry on the business of commercial optical disc duplication, that is the recording of copyrighted materials owned by others onto recordable optical discs for the purposes of sale, hire, lease, or other commercial dealing in such discs, or the fulfilling of an order for such discs placed by a third party in exchange for payment or other valuable consideration, unless such a person is duly registered by the Commission prior to engaging in such duplication, giving the names and addresses of the responsible persons and the address of the premises at which the duplication will take place.

Adaptation of  
Manufacturing  
Equipment.

- 4.** (1) No person shall be in possession of, control or operate any optical disc manufacturing equipment or any mould in Nigeria, unless it has been adapted to apply the appropriate manufacturer's code in accordance with these Regulations.
- (2) No person shall make, be in possession of or adapt any optical disc mould for the purpose of applying to an optical disc, a forged or false manufacturer's code, or any mark that is so similar to a manufacturer's code, as to be likely to deceive.
- (3) Any manufacturing equipment and any optical disc mould found in any registered premises shall for the purposes of this section be deemed to be in the possession of the person for whom the registered premises have been specified in his production certificate.

Manufacturer's  
Code  
Markings.

- 5.** (1) Every registered person shall, cause each optical disc and each production part manufactured by it in Nigeria to be marked with the appropriate manufacturer's code as may be prescribed by the Commission.
- (2) No person shall forge a manufacturer's code or falsely apply to an optical disc or production part a manufacturer's code, or any mark so resembling a manufacturer's code as to be likely to deceive; or make, dispose of or possess any die, block, machine or other instrument for the purpose of forging or used in forging a manufacturer's code.
- (3) No person shall sell, offer for sale, or otherwise distribute a production part that is not marked with the appropriate manufacturer's code endorsed on his production certificate.

Keeping of  
Records.  
C. 28 Laws of  
the Federation  
of Nigeria.

- 6.** (1) Without prejudice to the provisions of section 13 of the Copyright Act, every person registered under these regulations to manufacture optical discs shall, keep adequate records and samples of all works produced and such records and samples shall be made available for inspection by officers of the Commission.

such records and samples shall be made available for inspection by officers of the Commission.

- (2) Every registered person shall keep such books and make such periodic returns as may be required and in the manner prescribed by the Commission.
- (3) Every person registered under these regulations to manufacture optical discs shall, keep for a period of not less than twelve months from the date of production:
  - (a) one sample of each optical disc title manufactured by it, and
  - (b) one copy in a retrievable form of the content of each production part manufactured by it.

7. The Nigerian Copyright Commission may, after giving due notice, require the application of Source Identification (SID) Codes or any other prescribed anti-piracy device on every optical disc produced.

Allocation of the Manufacturer's Codes

8. (1) Each registered person shall cause his registration certificate to be displayed in a conspicuous location in each registered premises.

Display of Registration Certificate and Notification of Change in Particulars

(2) Each registered person shall notify the Commission not later than thirty (30) days after any change occurs in relation to any particulars set out in the application for the registration or the registration certificate granted him under these Regulations.

(3) Such notification shall be delivered to the Director General of the Commission at the Head office in Abuja.

9. (1) Each registered person and its employees shall cooperate with Copyright Inspectors carrying out an inspection of any registered premises by:

- (a) providing and explaining any records the Copyright Inspector wishes to inspect;
- (b) pointing out and providing access to all optical disc moulds, signal, processors and laser beam recorders and demonstrating to the satisfaction of the Copyright Inspector that they have been adapted to apply the appropriate manufacturer's code that may be prescribed under these Regulations; and
- (c) advising on the location of, and providing access to, all optical discs, production parts, and manufacturing equipment, the import or export of which requires an approval under these Regulations whether such items are located on the registered premises or elsewhere.

(2) Each registered person shall provide Copyright Inspectors carrying out an inspection with four (4) samples each of the discs moulded by each mould that has been used or could be used by the registered person for the manufacture of optical discs.

(3) During every inspection of registered premises under this Section, the Copyright Inspector carrying out the inspection shall do such things as he is empowered to do under Section 32A of the Copyright Act, including to:

C. 28 Laws of the Federation of Nigeria

he is empowered to do under Section 32A of the Copyright Act, including to:

- (a) remove and deliver to the Commission four (4) samples each of the discs moulded by each mould that has been used or could be used by the registered person to manufacture optical discs;
  - (b) take an inventory of all manufacturing equipment the import and export of which is required to be approved under these regulations, including the manufacturer's code that any piece of equipment has been modified to apply;
  - (c) verify that all moulds, along with spare moulds, and mastering equipment have each been modified to apply a unique manufacturer's code, corresponding to the code issued by the Commission to the registered person, in accordance with these regulations;
  - (d) verify that optical discs and production parts owned or controlled by the registered person, stored in the registered premises or elsewhere, have had the necessary manufacturer's codes applied to them;
  - (e) verify that full records as required under these regulations have been kept;
  - (f) verify the quantity of optical discs and raw materials held in stock by the registered person, either on the registered premises or elsewhere; and
  - (g) obtain from the records required to be kept by the registered person all information necessary to verify:
    - (i) that the quantity of raw materials consumed matches the quantity of optical discs manufactured;
    - (ii) that the records of equipment acquired and/or disposed of corresponds with the equipment in the registered premises; and
    - (iii) that raw materials, equipment, optical discs or production parts acquired, disposed of, imported or exported by the registered person corresponds with import or export approval applications received and with customs records of imports and exports.
- (4) Any inspection may be carried out with the participation of experts, professional organization or rights owners' association as the Commission may appoint and any such person or organization shall be given all privileges as the Commission may grant.
- (5) Any right owner, professional organization or rights owners association may request the Commission to carry out an inspection without giving prior notice on any registered premises, where it has reason to believe an infringement of its members' rights have taken place or any offence under these Regulations has been or will be committed and if satisfied, the Commission shall order an inspection to be carried out on the registered premises without prior notice and on such terms as it may deem fit.

10. (1) The Commission shall refuse to issue or to renew a registration, if the applicant, or any director, manager, secretary or other principal officer of the applicant:

- (a) has in the period beginning three (3) years prior to the date of lodging the application, been convicted by a court of competent jurisdiction in Nigeria of an offence under these Regulations or of an offence relating to a copyright work, or
  - (b) has manufactured optical discs or production parts, or engaged in commercial optical disc duplication without the required registration; or
  - (c) is for any reason not considered by the Commission to be a fit and proper person or legal entity to be registered ;
- (2) The Commission shall suspend a registration if
- (a) the registered person has been charged with an offence under these Regulations or an offence involving an infringement of a trademark, copyright or neighbouring right, or
  - (b) any other person or legal entity has been charged with an offence, committed in the registered premises, under these Regulations or an offence committed in the registered premises involving an infringement of a trademark, copyright or neighbouring right, or
  - (c) if an offence under these Regulations or an offence involving an infringement of a trademark, copyright or neighbouring right has been committed in the registered premises but the offender has not been identified.
- (3) The Commission shall revoke a registration if:
- (a) the registered person has been convicted of an offence under these Regulations or of an offence involving an infringement of copyright or neighbouring right; or
  - (b) any other person or legal entity has been convicted of an offence, committed in the registered premises, under these Regulations or of an offence involving an infringement of copyright or neighbouring right.
- (4) The Commission shall terminate a registration if, the registered person ceases permanently to manufacture optical discs or production parts in the registered premises.
- (5) The Commission shall order the closure of the plant if any person or legal entity manufacturing optical discs or production parts has been convicted of an offence under these Regulations or of an offence involving an infringement of copyright or neighbouring right.
- (6) The Commission may order the closure of the plant if, there has been a refusal to issue or renew a registration, or if a registration has been revoked, and the plant continues in operation without registration.

Offences and Penalties

11. (1) Any person who contravenes any provisions of these Regulations where no other penalty is prescribed under these Regulations commits an offence and is liable on conviction to imprisonment for a term not exceeding three years or to a fine of not less than N1, 000, 000. 00, or to or to both such imprisonment and fine.

(2) Any person who

- (a) refuses to-
  - i. cause each optical disc and each production part manufactured by it in Nigeria to be marked with the appropriate manufacturer's code as may be prescribed by the Commission under section 5(1) of these Regulations;
  - ii. produce any book, documents or keep records and make returns as required either under the Copyright Act, or under these Regulations;
  - iii. give any information or explanation required to be given under these Regulations; or
- (b) in the conduct of his business pursuant to a registration or approval granted under these Regulations:
  - i. produces any book, documents or make returns that is false;
  - ii. gives any information or explanation, which is false or misleading in any material particular,

commits an offence under these Regulations, and shall on conviction be liable to imprisonment for a term of not less than 2 years or to a fine of not less than N500,000 or such imprisonment and fine for refusal, or every false or misleading information given and where the offence continue, to a fine of not more than N10,000.00 for everyday the offence continues.

12. The fees to be paid in relation to any transaction under these Regulations shall be as stipulated in the Fourth Schedule to these Regulations.

13. In these Regulations, unless the context otherwise requires-  
“Copyright Inspector” means any person appointed as a Copyright Inspector under the Copyright Act.

“manufacture” means the making, or processing of raw materials into optical discs, whether pre-recorded, blank, or blank recordable, as well as the making or processing of production parts.

“manufacturer's code” means the code issued to a registered person in accordance with any prescription by the Commission.

“manufacturing equipment” means any machine, equipment or device, including mastering equipment, used for the manufacture of optical discs or production parts, including but not limited to:

- (a) Glass or polymer masters;
- (b) Direct Stamper Recording System;

Fees.  
Fourth  
Schedule.

Interpretation.

- (c) Stamper or other metal parts (or parts made of other materials);
- (d) Laser Beam Recorder;
- (e) Signal processing system for Laser Beam Recorder;
- (f) Equipment for spin coating glass masters with a photo resistant layer;
- (g) Electroforming equipment that make stampers;
- (h) Integrated optical disc replication lines;
- (i) Injection moulding machinery for the manufacture of optical discs;
- (j) Moulds, and components thereof, for the manufacture of optical discs;
- (k) Metalisers for applying reflective layers to optical discs;
- (l) Equipment for spin coating optical discs with lacquer coating;
- (m) DVD upgrade kits

“mastering equipment” means any machine, equipment or device used for the mastering of optical discs or production parts consisting of a signal processor and laser beam recorder or any other recorder, used to record data onto the glass or polymer master disc from which production parts are produced, or to record data directly onto a production part.

“Minister” means the Minister responsible for Justice.

“optical disc” means any medium or device, other than a production part, on which data in digital form, readable by means of an optical scanning mechanism employing a high-density light source such as a laser, has been stored or is capable of being stored, and includes but is not limited to:

- (a) CD (compact disc);
- (b) CD-DA (compact disc digital audio);
- (c) CD-I (compact disc interactive);
- (d) CD-P (compact disc photo);
- (e) CD-ROM (compact disc read-only memory);
- (f) CD-R (compact disc recordable);
- (g) CD-RW (compact disc rewritable);
- (h) CD-WO (compact disc write once);
- (i) DVD (digital versatile disc);
- (j) DVD-RAM (digital versatile disc random access memory);
- (k) DVD-ROM (digital versatile disc read-only memory);
- (l) LD (laserdisc); MD (minidisc); VCD (video compact disc);
- (m) CVD (China video disc);
- (n) SVCD (super video compact disc);
- (o) SACD (Super audio compact disc).

“persons” include human beings, partnership and corporate persons.

“production license” means a licence required under these Regulations.

“production part” includes:

- (a) Any other device, usually referred to as a “master”, “father” or “mother”, embodying data from which a stamper may be produced by means of an electroplating process.
  - (b) The component of a mould usually referred to as a “stamper” that embodies data in a digital form and is capable of being used to mould optical discs,
- “Professional organization” means an organisation whose membership consists

wholly or substantially of intellectual property right holders, and which is mandated by those members to enforce their rights against counterfeiting and/or piracy.

“raw material” means optical grade polycarbonate or any other raw material whose physical properties makes it suitable for the manufacture of optical discs.

“recordable optical discs” includes CD-R (compact disc recordable); CD-RW (compact disc rewritable); CD-WO (compact disc write once) or other formats specified in any notice published by the Commission.

“Registration premises” means the premises specified in a production license.



**First Schedule**  
**Form A**  
**NIGERIAN COPYRIGHT COMMISSION**

APPLICATION FOR REGISTRATION OF MANUFACTURERS/DUPLICATORS

*Full Name of Applicant:* .....

Address: .....

Telephone No: .....

Fax: .....

E-mail: .....

Internet Address: .....

Full Name of Foreign Partners (if any): .....

Address: .....

Telephone No: .....

Fax: .....

E-mail: .....

Internet Address: .....

*Names of Principal Officers*

Chairman: .....

Managing Director: .....

Secretary: .....

Production Manager: .....

Compliance Manager: .....

Membership: NARI ..... MORAN ..... Others (specify) .....

Standard operating Hours: .....

*Mastering Facilities:*

Method of Stamper Production (i.e. Galvanics, Firetrac or Direct):

Stamper Production Capacity (if any) per 24-hour period:

Company (if any) Supplying Stampers:

.....M  
Mastering Equipment Details:  
Manufacturer:.....  
Serial Number:.....  
LBR Code (show full range if applicable):.....  
Can LBR be turned off?.....

**Undertaking**

I.....do hereby affirm that I have the authority to furnish the information provided above and that the information provided is to the best of my knowledge true and correct.

Name:.....

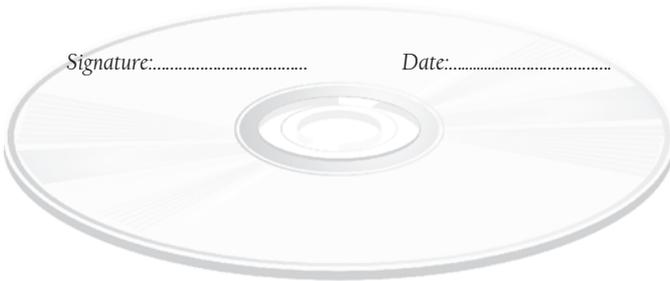
Designation:.....

.....Address:.....

.....

Signature:.....

Date:.....



**Form B**  
**NIGERIAN COPYRIGHT COMMISSION**

APPLICATION FOR APPROVAL TO EXPORT OR IMPORT

*Production Parts/Equipments*

Full Name of Applicant:.....

.....

Address:.....

.....

Telephone No: .....

Fax:.....

E-mail:.....

Internet Address: .....

Full Name of Foreign Partners (if any):.....

.....

Address:.....

.....

Telephone No:.....

Fax:.....

E-mail:.....

Internet Address: .....

*Names of Principal Officers*

Chairman:.....

Managing Director:.....

Secretary: .....

Production Manager:.....

Compliance Manager:.....

Membership: NARI ..... MORAN..... Others (specify) .....

Give the expected date of import or export:.....

*Particulars of Equipment*

Type of Equipment: .....

Make:.....

Model:.....

Serial No.:.....

Quantity to be Exported/Imported (delete as appropriate):.....

.....

If the equipment is a mould or a signal processor or laser beam recorder:

- (i) Has the piece of equipment been modified to apply a manufacturer's code?  
.....
- (ii) If so, state the manufacturer's code that each such piece of equipment has been modified to apply:.....
- (iii) State the name and physical address of the consignor, and, if different, the seller:.....  
.....
- (iv) State the name and physical address of the consignee, and if different, the purchaser:.....  
.....  
.....

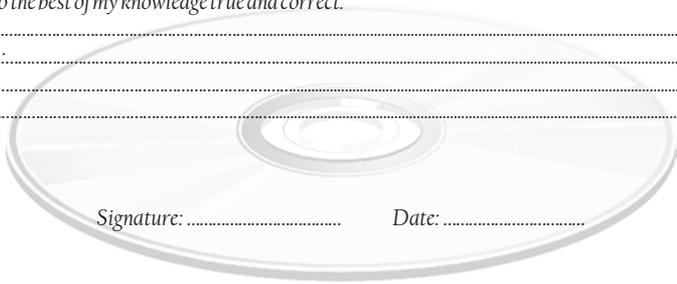
**Undertaking**

I, .....do hereby affirm that I have the authority to furnish the information provided above and that the information provided is to the best of my knowledge true and correct.

Name:.....

Designation:.....

Address:.....  
.....



Signature: ..... Date: .....

## SECOND SCHEDULE

### Information to Be Kept in Records

*Each registered person shall keep at least the following records and samples:*

#### *Relating to machinery and raw materials:*

1. (a) Every purchase, lease, sale, disposal or other transaction relating to any manufacturing equipment the import or export of which requires approval under these Regulation, specifying the make, model and serial number of the equipment, the manufacturer's code, if any, which the equipment has been adapted to apply, the date and nature of each transaction, the name and address of the party with whom the transaction was entered into, and, if the manufacturing equipment had at any stage been imported or exported, the approval application receipt number in respect of such import or export; and
- (b) Every purchase, lease, sale, disposal or other transaction relating to any raw material used in the manufacture of optical discs, the import or export of which requires approval under these Regulations, specifying the make, the product code or name, the date of each transaction, the name and address of the party with whom the transaction was entered into.

#### *Relating to each order received for the manufacture of optical discs or production parts:*

2. (a) A copy of the order in writing.
- (b) The name and physical address of the customer. In case the order is placed by an intermediary, the registered person must obtain the name and physical address of the actual customer who originated the order.
- (c) The job number(s) assigned by the registered person to the order.
- (d) A full description of the content of the optical disc or production part that has been ordered, specifying:
  - (i) in the case of audio content, the title of the disc, the names of the featured recording artists and the title of each work recorded;
  - (ii) in the case of computer or entertainment software, the name of the software program and the name of the software publisher;
  - (iii) in the case of audiovisual content, the title of each audiovisual work; and
  - (iv) in the case of other works, such as literary or other multimedia works, the title of the work and the name of the publisher.
- (e) The date the order was fulfilled and the quantity of optical discs or production parts supplied in respect of each title.
- (f) The address to which the optical discs or production parts were consigned, together with copies of all shipping documents.
- (g) Whether the optical discs or production parts were exported, and if so, the approval application receipt number in respect of such export, unless this is not reasonably obtainable by the registered person.
- (h) Copies of all invoices and details of the customer's method of payment, including bank or credit card details where applicable.
- (i) Copies of all evidence supplied by the customer to show that it is authorized to reproduce any trademarks, or any material protected by copyright or neighbouring rights embodied on the optical discs or production parts ordered.

reproduce any trademarks, or any material protected by copyright or neighbouring rights embodied on the optical discs or production parts ordered.

- (j) A full record of all steps taken by the registered person to verify the claim by the customer that he is so authorized.

*Relating to Productions*

- 3.
  - (a) The job number.
  - (b) The date of each production run and whether the production was of production parts or manufactured optical discs.
  - (c) The quantity of good copies of each optical disc title produced.
  - (d) The quantity of reject copies of each optical disc title produced.
  - (e) The quantity and title of optical discs remaining in stock.
  - (f) The quantity, date of delivery and manufacturer's codes of any discs or production parts that were produced by a subcontractor, and the name and address of the subcontractor.

*Relating to Reject Discs*

- 4.
  - (a) The weight of reject discs produced.
  - (b) The weight of reject discs disposed of.
  - (c) Documentary evidence of each disposal of reject discs.



## THIRD SCHEDULE

### Contents of Certificate

The following information shall be included in the approval or certificate required to be issued under these Regulations:

1. the name and address of the registered person;
2. the address of each premises used to manufacture optical discs or production parts, as well as any ancillary facility, including any distribution or storage facility;
3. what the registration is granted for (optical discs; production parts; or both)
4. any manufacturer's codes that have been allocated or issued to the applicant if so prescribed by the Commission;
5. the duration of the registration; and
6. any other conditions that may be imposed by the Commission.



