

Government of the Republic of the Union of Myanmar

Ministry of Commerce

Notification No. 58/2024

The 2nd Waxing Day of Wagaung, 1386 M.E.

(6 August 2024)

In the exercise of the powers conferred under clause (i) of subsection (b) of section 101 of the Copyright Law, the Ministry of Commerce, with the approval of the Union Government, hereby issues these Regulations.

Chapter I

Title and Definitions

1. These regulations shall be called the **Regulations for Establishment of Collective Management Organization on Copyright or Related Rights**.

2. The expressions in these regulations shall have the same meanings as defined in the Copyright Law. Moreover, the following expressions shall have the meanings given below:

- (a) **Law** means the Copyright Law;
- (b) **Applicant** means the person whose name is mentioned as applicant in any application relating to the establishment of Collective Management Organization on Copyright or Related Rights;
- (c) **Certificate of Accreditation** means the certificate of accreditation issued by the Agency after verifying compliance with the requirements regarding the application for establishment of Collective Management Organization on Copyright or Related Rights;
- (d) **Fee** means the fee prescribed by the Agency with the approval of the Union Government through the Central Committee to be paid in accordance with the Law and these regulations;
- (e) **Register** means the list of the relevant facts of Collective Management Organization on Copyright or Related Rights including grant or refusal of its establishment recorded, by any means including electronic means, by the Agency;

- (f) **Royalty** means payment made by the user of a literary or artistic work, performance, phonogram or broadcast to the copyright owner or related rights owner or right holder;
- (g) **Member** means the copyright owner or related rights owner or right holder who entrusts the Collective Management Organization for the management of Copyright or Related Rights by type of literary or artistic sector and rights;
- (h) **Department** means the Intellectual Property Department of the Ministry of Commerce.

Chapter II

Application for Establishment of Collective Management Organization on Copyright or Related Rights

3. A person who wishes to establish the Collective Management Organization on Copyright or Related Rights shall apply to the Agency with the Application Form (CMO-1). The application shall be filed on behalf of the organization by the General Manager or Chief Executive Officer or the person authorized by the organization.

4. A fee must be paid for the service of verifying the application for the establishment of the Collective Management Organization.

5. The organization which applies to establish the Collective Management Organization on Copyright or Related Rights shall:

- (a) be a non-profit organization;
- (b) be an organization which includes the copyright owners or related rights owners or right holders according to the type of literary or artistic sector and rights to be managed by the Collective Management Organization on Copyright or Related Rights;
- (c) be able to manage the tasks of the Collective Management Organization on Copyright or Related Rights.

6. Where filing under Regulation 3, the following shall be accompanied with the application:

- (a) the organizational structure;
 - (i) in this structure;
 - (aa) Board of Directors (Governing Body);
 - (bb) Accounting body;
 - (cc) Information Technology body;
 - (dd) Management body which manages on licensing, collection and distribution of royalties to members etc.;
 - (ee) document maintaining body and other necessary body shall be included.
 - (ii) a General Manager or Chief Executive Officer shall be appointed to manage and supervise the operations.
 - (iii) members and members of Board of Director shall be citizens residing in the country.
- (b) Articles of Association;
- (c) a list and personal details of members of Board of Director;
- (d) a list of members;
- (e) terms and conditions for collection of royalty;
- (f) terms and conditions for distribution of royalty;
- (g) a bank receipt;
- (h) membership agreement or copyright management contract;
- (i) a reciprocal agreement with other Collective Management Organization for copyright or related rights (if any);
- (j) licensing agreement between the Collective Management Organization on copyright or related rights and users;
- (k) if any collection and distribution of royalties were made before the issue of these Regulations, the financial statements regarding those royalties.

7. The application for the establishment of Collective Management Organization on Copyright or Related Rights shall be filed to the Agency by one of the following ways:

- (a) filing an application at the Agency;
- (b) filing an application through any postal service authorized by the State;
- (c) filing an application with electronic means specified by the Agency.

8. Regarding the application for establishment of Collective Management Organization on Copyright or Related Rights, the Agency shall:

- (a) notify the applied organization to submit the requirements within 30 days from the date of sending the notification if it is found that the facts in Regulation 6 are incomplete,
- (b) deem the application is nullified if the applied organization does not submit the requirements within the specified period according to sub-regulation (a).

9. The agency shall send the documents regarding the application to the Working Group for Collective Management Organizations on Copyright or Related Rights for verification.

10. The working group for Collective Management Organizations on Copyright or Related Rights shall verify the application that is complete with the facts specified in Regulation 6 whether it complies or not with the facts specified in Regulation 5 and submit its findings to the Agency with comments.

Chapter III

Issuance of Certificate of Accreditation and Recordation

11. The Agency shall verify the findings and comments made by the working group for Collective Management Organization on Copyright or Related Rights under the Regulation 10 and grant or refuse the establishment of Collective Management Organization on Copyright or Related Rights within 60 days.

12. Regarding the application for establishment of Collective Management Organization on Copyright or Related Rights, the Agency shall:

- (a) record the grant if it is granted and notify the organization which has filed an application and then shall publish the description of facts in Regulation 13;
- (b) record the refusal if it is refused and notify the organization which has filed an application;
- (c) issue the certificate of accreditation to the organization which has filed an application if it is granted.

13. Where the Agency records its grant or refusal of the establishment of Collective Management Organization on Copyright or Related Rights, it shall include the following in the register:

- (a) name and full address of the Collective Management Organization on Copyright or Related Rights;
- (b) date of submission of the application;
- (c) name, citizenship scrutiny card number and full address of the applicant;
- (d) type of literary or artistic sector to be managed;
- (e) type of right and right owner to be managed;
- (f) certificate of accreditation number;
- (g) date of grant;
- (h) date of expiration;
- (i) decision of grant or refuse.

14. The term of the Collective Management Organization on Copyright or Related Rights is five years from the date of grant.

Chapter IV

Duties of the Collective Management Organization on Copyright or Related Rights

15. The Collective Management Organization on Copyright or Related Rights shall carry out the following duties:

- (a) holding the general meeting at least once a year;
- (b) submitting an annual report to the Agency within three months after the end of the fiscal year;
- (c) submitting audited financial statements to the Agency within three months after the end of the fiscal year; (The financial statement shall include collected royalties, distributed royalties to members and operating cost etc.)
- (d) submitting any amendments on implementation of tasks of the organization including Articles of Association, terms and conditions for collection and distribution of royalty and royalty rates to the Agency within 30 days from the date of the amendment;
- (e) negotiating with and granting licence to the users regarding the use and licence of the entrusted literary and artistic works and related rights subject matters;
- (f) compiling information on the use of literary and artistic works and related rights subject matters to ensure timely distribution of royalties;
- (g) collecting royalties from users and distributing the collected royalties to copyright owners or related rights owners or rights holders who are members in accurately and regularly manner;
- (h) maintaining personal details of members systematically.

16. The Collective Management Organization on Copyright or Related Rights may settle the disputes arising out of among its members by means of mutual consultation amicably. If the dispute cannot be settled by such means, it may be settled by means of arbitration or judicial proceedings.

17. When collecting royalties from users, the Collective Management Organization on Copyright or Related Rights shall specify the type of rights to be collected royalties, the rates to be collected and the calculation methods based on the comparison of

collected royalties, the economic value of the rights to be used, the purpose and manner of use, the benefits and other relevant factors.

18. The Collective Management Organization on Copyright or Related Rights shall specify the following regarding to royalty distribution:

- (a) Time, frequency of distribution and methods of distribution of royalties;
- (b) Percentage of collected royalties that will be used for administrative purposes;
- (c) terms and conditions for the use of undistributable royalties.

19. The Collective Management Organization on Copyright or Related Rights shall have its own website and database.

20. The Collective Management Organization on Copyright or Related Rights shall regularly publish the following information on its website:

- (a) Articles of Association, code of conduct for members and terms on termination of membership;
- (b) terms and conditions for collection of royalty;
- (c) terms and conditions for distribution of royalty;
- (d) dispute settlement mechanisms;
- (e) list of members of Board of Director and staff;
- (f) information related to licensing:
 - (i) type of rights and rights owner to be managed;
 - (ii) collection of royalty and methods of payment;
 - (iii) entrusted works made available for licensees;
 - (iv) terms and conditions for users.
- (g) other relevant information.

Chapter V

Suspension and Cancellation

21. The Agency shall suspend the operations of the Collective Management Organization on Copyright or Related Rights for a period not exceeding six months if it finds any of the following in relation to its operations:

- (a) failure to comply with the Copyright Law, these regulations, and orders, notifications and directives issued from time to time;
- (b) misrepresentation of documents or information;
- (c) failure to meet the requirements specified in Regulation 5;
- (d) lack of transparency, accountability, and good management in its operations;
- (e) breach of contract made with any user;
- (f) verification of the fact that the certificate of accreditation was obtained by fraud, misrepresentation or concealing any specified information;
- (g) managing the type of works or rights that is not entrusted to be managed;
- (h) failure to comply with the terms and conditions for collection of royalty and distribution of royalty;
- (i) using collected royalties for other purposes except as provided in sub-regulation (b) of Regulation 18;
- (j) failure to carry out the tasks within one year from the date of obtaining a grant to establish the Collective Management Organization on Copyright or Related Rights.

22. The Collective Management Organization on Copyright or Related Rights may submit a request for the revocation of suspension together with an explanation to the Agency within six months from the date of sending the notification of suspension of operations.

23. The agency shall verify the explanation submitted under regulation 22 and may revoke the suspension order.

24. The Agency shall cancel the grant to establish a Collective Management Organization on Copyright or Related Rights if it finds any of the following:

- (a) failure to submit a request for the revocation of the suspension within six months under Regulation 22 after being suspended;
- (b) non-revocation of the suspension order by the Agency even though the Collective Management Organization on Copyright or Related Rights submitted a request to revoke the suspension;
- (c) further violation of any provisions in Regulation 21 in relation to the organization's operations after the suspension order has been revoked under Regulation 23.

25. If the grant to establish the Collective Management Organization on Copyright or Related Rights has been cancelled from the register, such cancellation shall be recorded, the organization shall be notified thereof and it shall be published.

26. The publication of the cancellation from the register under Regulation 25 shall include the following:

- (a) name and full address of the Collective Management Organization on Copyright or Related Rights;
- (b) certificate of accreditation number;
- (c) reasons for cancellation;
- (d) date of cancellation from the register.

27. After issuing of these Regulations, if no application made for the establishment of a Collective Management Organization on Copyright or Related Rights, or if the operation of the organization has been suspended or if the grant to establish a Collective Management Organization on Copyright or Related Rights has been cancelled, tasks in these Regulations shall not be performed.

Chapter VI

Renewal

28. The Collective Management Organization on Copyright or Related Rights shall apply to the Agency for renewal with the Application Form (CMO-2) within three months before the expiration of its term. The application shall be submitted on behalf of the organization by the General Manager or Chief Executive Officer or a person authorized by the organization.

29. A fee must be paid for the service of verifying the application for renewal.

30. Where applying for renewal under Regulation 28, the following shall be submitted with the application:

- (a) a copy of the certificate of accreditation;
- (b) the organizational structure and Articles of Association;
- (c) a bank receipt;
- (d) a list of current members of Board of Director and agreement related to the renewal application;
- (e) a list of current members;
- (f) audited financial statements for the respective fiscal year;
- (g) evidence signed by the Chairman of the Board of Director stating that there were no complaints or disputes for the distribution of royalties during the five-year term;
- (h) evidence of settlement if there were complaints or disputes.

31. The Agency shall verify the implementation of the tasks of the Collective Management Organization on Copyright or Related Rights and grant or refuse the application for renewal of the term for five years.

32. If the Collective Management Organization on Copyright or Related Rights did not apply for renewal within three months before the expiration of the term, it shall

apply for renewal in accordance with Regulation 28 by paying the prescribed fine. If it fails to apply for renewal for one year in continuation, it shall be cancelled from the register.

33. Regarding the application for renewal, the Agency shall:

- (a) record the grant if it is granted, notify the organization which has filed an application and publish the description of facts in Regulation 34;
- (b) record the refusal if it is refused and notify the organization which has filed an application;
- (c) issue the certificate of renewal to the organization which has filed an application.

34. The following shall be included in the Register for grant and refusal of the renewal:

- (a) name and full address of the Collective Management Organization on Copyright or Related Rights;
- (b) certificate of accreditation number;
- (c) date of submission of the application;
- (d) name, citizenship scrutiny card number, and full address of the applicant;
- (e) type of managed literary or artistic sector;
- (f) type of managed rights and rights owner;
- (g) date of expiration;
- (h) number of renewals;
- (i) decision of grant or refusal for renewal.

Chapter VII

Miscellaneous

35. Only a maximum of two organizations are allowed to be established to manage the same type of rights in a respective sector of work, such as literary works, artistic works, musical works, audio-visual works, cinematographic works, dramatic works, etc.
36. Organizations that were operating as Collective Management Organizations on Copyright or Related Rights before the issuance of these regulations shall apply for its establishment within three months from the date of issuance of these regulations.
37. The Collective Management Organization on Copyright or Related Rights shall treat its members equally without discrimination in accordance with its Articles of Association and code of conduct for members.
38. The Collective Management Organization on Copyright or Related Rights shall ensure transparency and fairness in accordance with the prescribed Articles of Association and code of conduct regarding representation of members in decision-making process.
39. The Collective Management Organization on Copyright or Related Rights shall operate in accordance with the administrative rules and regulations prescribed in its organization.
40. The Collective Management Organization on Copyright or Related Rights shall carry out the tasks in these regulations, in accordance with the prescribed administrative rules and regulations in the organization.
41. The Collective Management Organization on Copyright or Related Rights shall comply with the directives issued by the Agency.
42. The Collective Management Organization on Copyright or Related Rights may make reciprocal agreements with other collective management organizations in the country or with the collective management organizations in other countries.

43. The disputes between the Collective Management Organization on Copyright or Related Rights and users of the literary or artistic work or related rights subject matters may be settled by means of mutual consultation amicably or arbitration or judicial proceedings.

44. The Collective Management Organization on Copyright or Related Rights may conduct the mediation or judicial proceedings on behalf of its members in accordance with their agreement regarding infringements of the rights entrusted to it.

45. The Agency may, if necessary, request the Collective Management Organization on Copyright or Related Rights to submit the report of implementation of the tasks at any time and may inspect the documents related to its operations.

46. Users shall contact the copyright owner, related rights owner, or the relevant Collective Management Organization on Copyright or Related Rights for the use of literary or artistic works, performances, phonograms or broadcasts.

47. The Collective Management Organization on Copyright or Related Rights shall invite a representative of the Agency to attend its annual general meeting.

48. While publishing the matters regarding the application for establishment of a Collective Management Organization on Copyright or Related Rights, the publication shall be made either by the electronic means through the official website of the Department or by the publication book of the Department.

49. All fees paid shall not be refundable under any circumstances.

(Sd.)

Htun Ohn

Union Minister

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By order,

Aung Thwin Oo

Director General