

No. R. 606

1 July 2005

COMPANIES AND INTELLECTUAL PROPERTY REGISTRATION OFFICE**AMENDMENT OF THE REGULATIONS ISSUED UNDER THE REGISTRATION OF
COPYRIGHT IN CINEMATOGRAPH FILMS ACT, 1977 (ACT 62 OF 1977)**

I, MANDISI MPAHLWA, The Minister of Trade and Industry have under section **45** of the Registration of Copyright in Cinematograph Films Act, **1977 (Act 62 of 1977)** read with section **28** of the Electronic Communications and Transactions Act, **2002 (Act 25 of 2002)**, amended the Regulations made under the said Act in accordance with the Schedule.

SCHEDULE**GENERAL EXPLANATORY NOTE:**

[**]** Words in bold type in square brackets indicate omissions from existing regulations.

 Words underlined with a solid line indicate insertions in existing regulations.

Definitions

1. In these regulations "the Regulations" mean the Regulations made under the Registration of Copyright in Cinematograph Films Act, **1980**, and published in Government Notice No. **R.2140** of **24** October **1980**, as amended.

Amendment of regulation **1 of the Regulations**

2. Regulation **1** is hereby substituted by the following regulation:

"1. In these regulations, unless the context otherwise indicates, any expression to which a meaning has been assigned in the Registration of Copyright in Cinematograph Films Act, **1977 (Act 62 of 1977)**, bears the meaning so assigned, and-

'access code' means the unique identification particulars, whether alphanumeric, biometric or otherwise, enabling the CIPRO system to identify a Person;

'CIPRO' means the Companies and Intellectual Property Registration Office that constitutes a combined administrative office for the various registration offices established or deemed to be established under the Act, the Patents Act, 1978 (Act 194 of 1993), the Trade Marks Act, 1993 (Act 194 of 1993), the Designs Act, 1993 (Act 195 of 1993), the Close Corporations Act, 1984 (Act 69 of 1984) and the Companies Act, 1973 (Act 61 of 1973);

'CIPRO customer' means any Person using electronic services and includes any person who has been allowed by the Registrar to use electronic services, who is legally entitled to act on behalf of a natural or juristic Person, and who has thus been allowed to use or provide electronic services or to act as an intermediary in respect of electronic services;

'CIPRO portal' means the Internet website or other electronic Portal forming part of the CIPRO system;

'CIPRO record retention system' means the system used by CIPRO to store records for subsequent access, whether in paper, microfilm, electronic or any other form;

'CIPRO system' means the computer system, including the CIPRO portal, through which CIPRO provides electronic services, irrespective of the medium or form of technology underlying or forming part of such services;

'electronic services' means the services provided or made available by CIPRO through the CIPRO system in terms of regulation 1A;

'inspect' includes obtaining access to a record via the CIPRO system;

'lodge' includes the creation of a record on the CIPRO system;

“Patent Journal” means the official journal of patents, designs and trade marks of the Republic of South Africa;

“Office “ means the registration office for copyright in cinematograph films established under section 2 of the Act;

‘operational requirements’ means the requirements provided for in regulation 1A(2);

‘record’ includes a document and vice versa;

‘The Act’ means the Registration of Copyright in Cinematograph Films Act, 1977 (Act 62 of 1977).”.

Insertion of regulation 1A in the Regulations

3. The following heading and regulation is hereby inserted after regulation 1:

ONLINE SERVICES

1A. (1) The Registrar may direct by notice in the Gazette that any requirement under the Act or these regulations, including requirements in respect of information, records and Document, may or must be satisfied in electronic form, subject to the Provisions of the operational requirements.

(2) The Registrar must publish operational requirements on the CIPRO portal setting out the requirements, processes and Procedures in respect of all or certain electronic services, including -

(a) registration procedures;

(b) identification, authentication and verification;

(c) form and format of records;

(d) manner and form of payment;

- (e) information security requirements; and
- (f) record retention requirements.
- (3) The operational requirements may be published in different forms over different Darts of the CIPRO Portal.
- (4) Unless another form of electronic signature is specified in the operating requirements, any signature requirement under the Act or these regulations in respect of a record to be accessed from or lodged with CIPRO is satisfied by the CIPRO user entering his access code on the CIPRO system and any record lodged after the CIPRO user having entered the access code shall be deemed to have been duly signed by the person whose signature is required under the Act or these regulations for purposes of such record.
- (5) Where any form under the Act or regulations makes provision for a signature and such form is deemed to be signed as provided for in sub-regulation (4), it shall not be necessary to have recorded on such form that it had been signed.
- (6) Unless CIPRO receives prior written notification from the holder of an access code to disable such access code, CIPRO shall be entitled to accept that the person using electronic services is the person to whom the access code was issued or such person's duly authorized representative acting within the scope of such person's authority.
- (7) CIPRO may suspend or terminate electronic services at any time without incurring any liability for doing so: Provided that proper notice of such suspension or termination shall be given and that such suspension or termination will not affect existing rights of any person who has been using such electronic services."

Amendment of regulation 2 of the Regulations

4. Regulation 2 is hereby substituted by the following regulation:

"2. The fees to be paid in terms of the Act shall be the fees specified in Schedule 1 hereto, and shall be payable in such manner as the Registrar may direct."

Amendment of regulation 3 of the Regulations

5. Regulation 3 is hereby substituted by the following regulation:

"3. The forms referred to in these regulations are the forms contained in Schedule 2 hereto and the forms used whether in paper form or in any electronic form authorized by the Registrar for electronic services, shall be substantially in the form of those prescribed for the cases concerned but may be modified or amended with the approval of the Registrar provided that such modification or amendments shall not substantially affect their identity.",

Amendment of regulation 4 of the Regulations

6. Regulation 4 is hereby amended by the insertion of the following proviso at the end thereof:

"Provided that the requirements of this regulation are met if documents have been lodged in accordance with the operational requirements and proof of payment of the prescribed fee (if any) has been Provided."

Amendment of regulation 5 of the Regulations

7. Regulation 5 is hereby amended by the substitution for sub-regulation (b) the following sub-regulation:

"(1) Any application, statement, notice or other document authorized or required to be lodged, left, made or given with, to or at the Office or with or to the Registrar may be sent through the post [~~;~~ **and**] or in such electronic form and by such electronic means as authorized by the Registrar for electronic services: Provided that such document so sent shall not be deemed to have been duly sent unless and until it is actually received in the Office."

Amendment of regulation 6 of the Regulations

- 8.** Regulation 6 is hereby amended by the substitution for sub-regulation (4) of the following sub-regulation:

"(4) An address for service may, in addition, contain a post office box number or an e-mail address in special cases if such additional information **could** facilitate postal delivery or e-mail notification."

Amendment of forms in Schedule 2 of the Regulations

- 9.** The forms contained in Schedule 2 are hereby amended by the deletion of the expression "Revenue stamp or revenue franking machine impression" where it appears therein.