

2024 PUBLIC CONSULTATION ON PRESCRIBED EXCEPTIONS IN PART 6, DIVISION 1 OF THE COPYRIGHT REGULATIONS 2021

Prepared by the Ministry of Law (“MinLaw”) and the Intellectual Property Office of Singapore (“IPOS”)
22 April 2024

PART I: INTRODUCTION

1. MinLaw and IPOS are seeking comments on situations in which users should be permitted to circumvent technological measures that control access to copyright works or protected performances (“**access control measures**”). The public is invited to provide comments from **22 April 2024 to 19 May 2024**.

2. Access control measures are technologies, devices, or components that are akin to digital locks; in the normal course of their operation, they effectively control access to copyright works and protected performances.¹ The Copyright Act 2021 (“CA”) prohibits users from circumventing access control measures (i.e. breaking the lock) or from dealing in products or services that allow others to do so.² Access control measures and other technological measures support rights owners in protecting their copyright works and protected performances from rights infringements.

3. However, there may be situations in practice where access control measures restrict legitimate, non-infringing acts. For instance, an access control measure may prevent the use of assistive technologies that convert text into accessible formats for the benefit of users with print disabilities, even though this would otherwise be permitted under the CA. Generally, circumvention should be allowed for these situations where the access control measures are considered to adversely impair legitimate, non-infringing uses.

4. Accordingly, there are legislated exceptions covering situations where users are permitted to circumvent access control measures for non-infringing uses. In Singapore’s legislation, these are found in:

- a. the CA, Part 7, Division 4 (Protection of Technological Measures), and
- b. the Copyright Regulations 2021, Part 6, Division 1 (Protection of Technological Measures).³ This Division contains a list of prescribed exceptions that are reviewed regularly to ensure that the exceptions remain relevant in light of technological and market developments (the “**prescribed exceptions**”).

5. The current prescribed exceptions will expire on 31 Dec 2024. The exceptions that will be prescribed pursuant to this public consultation will commence on 1 Jan 2025 and will remain in force for a period of no more than 4 years.

¹ As defined in Section 423 of the Copyright Act 2021.

² See Sections 425 – 427 of the Copyright Act 2021.

³ Read with Section 435 of the CA. The exceptions contained in this Division were previously contained in the Copyright (Excluded Works) Order 2020, which was revoked with effect from 21 November 2021.

PART II: FEEDBACK SOUGHT

Existing Prescribed Exceptions

6. At present, there are 8 prescribed exceptions in Part 6, Division 1 of the Copyright Regulations 2021. Based on feedback from past public consultations, these were implemented as they are genuine non-infringing dealings which have been, or are likely to be, adversely impaired by the prohibition on circumventing access control measures.

7. MinLaw and IPOS seek feedback on whether these exceptions should be retained, and if so, whether with any modifications (including specific modifications suggested to us under Reg 94 and Reg 100). They are listed under **Annex A**.

8. Please refer to paragraph 14 below on the details to be provided in your feedback.

New Prescribed Exceptions

9. Since the previous public consultation on the prescribed exceptions,⁴ the Copyright Act 1987 was repealed and re-enacted as the CA. The CA came into force on 21 November 2021 and introduced new, non-infringing uses of copyright works and protected performances, such as permitted uses that support galleries, libraries, archives, and museums in carrying out their activities relating to their public collections.⁵

10. MinLaw and IPOS seek feedback on whether the prohibition on circumventing access control measures has impaired or adversely affected, or is likely to impair or adversely affect, any dealings with copyright works or protected performances that would be non-infringing based on a permitted use in **Annex B**.

11. We also welcome feedback on how the prohibition on circumventing access control measures has impaired or adversely affected (or is likely to impair or adversely affect), any other dealings that would be non-infringing by virtue of any permitted use in the CA not listed in this consultation.

12. Please refer to paragraph 14 below on the details to be provided in your feedback.

PART III: SUBMISSION OF COMMENTS

13. Your views are important and will help us ensure that the protections and exceptions in the CA, including the prescribed exceptions, fairly balance the interests and needs of all stakeholders.

14. All submissions should be clearly and concisely written. Your feedback should provide full details, including documentary evidence where relevant, as to why a particular prescribed exception should be retained (with or without modifications) or introduced, as the case may be. Please include details such as:

⁴ The 2020 Public Consultation on the Copyright (Excluded Works) Order, which ran from 7 September 2020 – 16 October 2020.

⁵ Part 5, Division 6 of the CA.

- the full extent of the current or likely adverse impact on a dealing in relation to a copyright work or protected performance, in the absence of the exception;
- the class(es) of copyright works or protected performances that is/are affected or likely to be affected;
- the class(es) of persons that is/are affected or likely to be affected;
- the nature of the access control measure in issue and how it restricts access to the relevant copyright works or protected performances;
- the purpose of circumventing the access control measure; and
- the specific permitted use in the CA that results in the dealing in the relevant copyright works or protected performances being non-infringing.

While it is not necessary to propose legislative language for the prescribed exceptions (including any modifications to the existing exceptions), we welcome such proposals, if any.

15. Please include your name, contact number, and email address in your submission, so that we may contact you for any clarifications or follow-up questions if necessary.

16. Comments may be submitted via our feedback website <http://go.gov.sg/prescribedexceptions-consult2024> or via email or in hard copy, with the subject or header “**2024 Public Consultation on Prescribed Exceptions in Part 6, Division 1 of the Copyright Regulations 2021**”, to the following:

By post:

Intellectual Property Policy Division
 Ministry of Law
 100 High Street, #08-02, The Treasury
 Singapore 179434

By email:

MLAW_Consultation@mlaw.gov.sg

17. Please submit your views or comments by **19 May 2024**. Thank you.

18. We reserve the right to make public all or parts of any written submission and disclose the identity of the source. Commenting parties may request for confidentiality for any part of the submission that is believed to be proprietary, confidential or commercially sensitive. Any such information should be clearly marked and placed in a separate annex. If we grant confidential treatment, we will consider, but will not publicly disclose, the information. If we reject the request for confidential treatment, the information will be returned to the party that submitted it and will not be considered as part of this review. As far as possible, parties should limit any request for confidential treatment of information submitted. We will not accept any submission that requests confidential treatment of all, or a substantial part, of the submission.

Ref to Copyright Regulations	Description of Existing Prescribed Exception (including Possible Modifications)
Reg 93	<p>Software with obsolete access dongles Permits circumvention of access control measures applied to computer programs where access to the programs is controlled by obsolete dongles.</p>
Reg 94	<p>Ordinary use of obsolete software Permits circumvention of obsolete access control measures for ordinary use of obsolete computer programs.</p> <p>It has been suggested to us that this exception may be modified to also cover:</p> <ul style="list-style-type: none"> (a) computer programs that are no longer commercially available, or for which support is no longer available, to allow preservation and continued use of those programs; and/or (b) obsolete access control measures that are applied to works other than software, as well as protected performances. <p>In giving us feedback on this exception, please also let us know if these modifications should be made to the scope of the exception if it is retained.</p>
Reg 95	<p>Use of assistive technologies for audiobook/e-books Permits circumvention of access control measures applied to digital copies of literary or dramatic works where such measures interfere with read-aloud functions or assistive technologies.</p>
Reg 96	<p>Educational uses of films in courses on film or media studies Permits circumvention of access control measures applied to films to make compilations of portions of the films for educational uses in courses on film or media studies.</p>
Reg 97	
Reg 98	<p>Criticism, review or reporting news in the course of making documentaries Permits circumvention of access control measures applied to films to use short clips of the films for criticism or review, or news reporting, in the making of a documentary.</p>
Reg 99	<p>Good-faith cybersecurity research Permits circumvention of access control measures applied to works in digital form, sound recordings or films, for cybersecurity research carried out in good faith.</p>
Reg 100	<p>Replacement or repair of software used in essential or emergency systems Permits circumvention of access control measures to enable replacement or repair of computer programs used in essential or emergency systems.</p> <p>It has been suggested to us that this exception may be modified to also cover computer programs that are used in business essential systems, such as payment-related systems.</p>

	In giving us feedback on this exception, please also let us know if this modification should be made to the scope of this exception if it is retained.
--	--

Annex B

Ref to CA	Description of Permitted Use
Part 5, Division 8	Permitted use of copyright works and protected performances for computational data analysis.
Section 232	Permitted use of copyright material in public collection for preservation and replacement.
Section 233	Permitted use of material in public collection for administrative purposes.