

 Respondent 105870
[\[print\]](#)

Single response: Questionnaire on Limitations and Exceptions 2nd Round
Respondent id: 105870
Start date: 8/16/10 8:46 AM
Completed date: 8/16/10 9:23 AM
Response language: English [en]

1. The answers to this questionnaire have been provided on behalf of:

Country	Malaysia
Name of contact person	Kuljit Singh
Email address:	kuljit@myipo.gov.my
Telephone Number:	60169188802

2. Does your national statute provide for a limited number of specific statutory limitations and exceptions, an open system of limitations and exceptions (such as fair use or fair dealing) or a mix of both systems?

2. Open

3. Does your national statute include the three-step test as a general provision on copyright limitations and exceptions?

1. Yes

4. Does your national statute provide limitations and exceptions as free uses (there is no need for authorization or for payment of remuneration)?

1. Yes

Section 13(2)Copyright Act 1987

5. Does your national statute include limitations and exceptions based on statutory licenses (direct permission granted by the law against remuneration)?

1. Yes

Section 13(2)

6. Does your national statute include limitations and exceptions based on compulsory licenses (obligation of the rights owners under the law to grant licenses against remuneration)?

1. Yes

7. Does your national statute include specific limitations or exceptions permitting the use of copyrighted works for private or personal purposes, without previous authorization of the copyright or related rights owner?

1. Yes

SECTION 13(2)

8. Does your national statute provide remuneration for private or personal uses (for instance, copyright levies)?

1. Yes

9. Does your national statute allow parties to agree in licensing agreements or other binding contracts not to engage in conduct that would otherwise be permitted under the national statute's exceptions and limitations?

1. Yes

SECTION 27

10. Does your national statute subject the exercise of limitations and exceptions to the condition of a lawful or authorized source requirement (for instance, that copies are made from a lawful source)?

1. Yes

11. Does your national statute protect technological measures?

1. Yes

12. Does your national statute protect rights management information?

1. Yes

13. Does your national statute provide specific mechanisms to ensure that limitations or exceptions continue to apply despite the existence of any technological measures implemented by the copyright or related rights owners?

1. Yes

14. If recourse to legal proceedings is needed, what is the average time to ensure the exercise of limitations and exceptions if some type of technological measures of protection is applied by copyright and related rights owners?

NO TIME LIMIT

15. Does your national statute provide that certain limitations or exceptions prevail over the prohibitions on the act of circumventing technological protection measures or rights management information?

1. Yes

16. If recourse to legal proceedings is needed regarding limitations and exceptions, what is the average time needed to resolve a dispute regarding the prohibition of circumventing the technological measures of protection and digital rights management?

No specific time limit

17. Does your national statute include limitations and exceptions especially for the use of computer programs?

1. Yes

Section 40

18. Does your national statute provide limitations and exceptions for the temporary use of digital works?

1. Yes

Section 40(1)

19. Does your national statute include limitations and exceptions, or statutory safe harbors (statutory safe harbor refers to any statutory enactment which provides that a person will not be liable upon taking certain measures), for the activities of the service providers of digital transmission of works?

1. Yes

Under the new amendment of Copyright Act 1987 (Amendment 2010)

20. Does your national statute provide that certain limitations or exceptions prevail over the prohibition on the acts of trafficking with devices or providing services that allow the circumvention of technological protection measures or rights management information?

1. Yes

Under the current new amendments of the said act

21. If recourse to legal proceedings is needed regarding exceptions and limitations, what is the average time needed to resolve a dispute regarding the prohibition of dealing with devices or providing services to circumvent the technological protection measures and rights management information?

Not specified

22. [If your national statute is included in the analysis of specific exceptions contained in any of the studies on limitations and exceptions for educational or research activities \(documents SCCR/19/4, SCCR/19/5, SCCR/19/6, SCCR/19/7, SCCR/19/8\)¹](#), do you consider that the analysis is correct?

1. Yes

23. Does your national statute provide specific limitations and exceptions for educational purposes?

1. Yes

Section 13(2)(a)

24. In case of affirmative answer to the previous question, what kind of activities are those limitations and exceptions related to?

3. Both

25. Does your national statute provide specific limitations and exceptions allowing performances for educational purposes, such as performances by teachers in classrooms or school concerts?

1. Yes

Section 16A

26. Does your national statute provide remuneration against the exercise of the specific limitations and exceptions that permit performances for educational purposes?

1. Yes

Section 16B

27. Does your national statute provide for any specific requirement regarding the qualitative or quantitative limits and nature of the works or objects of related rights covered by the specific limitations and exceptions allowing performances for educational purposes?

2. No

28. Who is eligible to engage in activity covered by the specific limitations and exceptions allowing performances for educational purposes? (more than one option can be selected)

1. Teachers
2. Students
3. Educational institutions

Public Learning Institutions

29. In case educational institutions are eligible to engage in activities covered by specific limitations and exceptions allowing performances for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

2. Not-for-profit
3. Public

30. Does your national statute provide targeted limitations and exceptions allowing reproduction for educational purposes?

1. Yes

31. What kind of reproduction is covered by those limitations and exceptions? (more than one option can be selected)

1. Reprography
2. Digital copying

32. Do the limitations or exceptions allowing reproduction include the preparation of course packs, compilations or anthologies?

1. Yes

33. Does your national statute provide remuneration for the exercise of the specific limitations and exceptions allowing reproduction for educational purposes?

1. Yes

34. Does your national statute provide for any specific requirement regarding the qualitative or quantitative limits and nature of the works or objects of related rights covered by the specific limitations and exceptions allowing reproduction for educational purposes?

1. Yes

35. Who is eligible to engage in activities covered by the specific limitations and exceptions allowing reproduction for educational purposes? (more than one option can be selected)

- 1. Teachers
- 2. Students
- 3. Educational institutions

Public Institutions

36. In case educational institutions are eligible to engage in activities covered by the enumerated limitations and exceptions allowing reproduction for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

- 2. Not-for-profit
- 3. Public

37. Does your national statute subject the limitations and exceptions on reproduction for educational purposes to the use of technological measures?

1. Yes

Under the new amendments

38. Does your national statute provide specific limitations and exceptions allowing translations for educational purposes?

1. Yes

39. Does your national statute provide remuneration against the exercise of specific limitations and exceptions allowing translations for educational purposes?

1. Yes

40. Does your national statute provide for any specific requirement regarding the extent and nature of the works or objects of related rights covered by the enumerated limitations and exceptions allowing translations for educational purposes?

1. Yes

41. Who is eligible to engage in activities covered by the specific limitations and exceptions allowing translations for educational purposes? (more than one option can be selected)

2. Students
3. Educational institutions

Public Learning Institutions

42. In case educational institutions are eligible to engage in activities covered by any of the enumerated limitations and exceptions allowing translations for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

2. Not-for-profit
3. Public

43. Does your national statute provide specific limitations and exceptions for making available in digital networks for educational purposes?

1. Yes

44. Do the specific limitations or exceptions for making available in digital networks include coursepacks, compilations or anthologies?

1. Yes

Section 40

45. Does your national statute provide remuneration against the exercise of the specific limitations and exceptions for making available in digital networks for educational purposes?

1. Yes

46. Does your national statute include any specific requirement regarding the qualitative or quantitative limits extent and nature of the works or objects of related rights covered by the specific limitations and exceptions for making available in digital networks for educational purposes?

1. Yes

47. Who is eligible to engage in activities covered by the specific limitations and exceptions for making available in digital networks for educational purposes? (more than one option can be selected)

1. Teachers

Public Learning Institutions

48. In case educational institutions are eligible to engage in activities covered by the specific limitations and exceptions for making available in digital networks for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

-

49. Does your national statute subject the limitations and exceptions on making available in digital networks for educational purposes to the use of technological measures?

1. Yes

Section 40

50. Does your national statute include any other specific limitations or exceptions related to educational purposes that have not been covered above?

2. No

51. If not, what other limitations and exceptions for educational purposes would be necessary?

none

52. Are there impediments to the use of limitations and exceptions for educational purposes (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

2. No

53. [If your national statute is included in the analysis of specific exceptions contained in the Annex of the WIPO Study on Copyright Limitations and Exceptions for Libraries and Archives \(document SCCR/17/2\)³](#), do you consider that the analysis is correct?

1. Yes

54. Does your national statute contain any limitations or exceptions that permit copying by libraries and/or archives for purposes of preservation or replacement?

1. Yes

55. What types of works may be reproduced for these purposes?

To substitute the destroyed copies, out of print copies

56. Does your national statute establish qualitative or quantitative limits for these purposes?

2. No

57. What other conditions must be met in order for such reproduction to be authorized?

To mention the name of the source

58. Does your national statute contain any limitations or exceptions that permit copying by libraries or archives for patron use?

1. Yes

59. What types of works may be reproduced for these purposes?

Fir destroyed and out of print copies

60. Does your national statute include specific provisions regarding orphan works?

1. Yes

61. Does your country have plans to include or modify the specific exceptions and limitations related to the activities of libraries and archives?

1. Yes

62. If not, what other limitations and exceptions for libraries and archives would be necessary?

63. Are there impediments to the use of limitations and exceptions related to the activities of libraries and archives (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

1. Yes

International constraints because the laws of wach country differs from one another

64. Does your national statute establish qualitative or quantitative limits for these purposes?

2. No

65. What other conditions must be met in order for such reproduction to be authorized?

must mention the source

66. Does your national statute contain any limitations or exceptions that permit libraries to reproduce and/or distribute works (either reprographic and/or digital) for the purposes of interlibrary lending?

1. Yes

67. Does your national statute contain any limitations or exceptions that permit any other organizations (such as museums or educational institutions) to reproduce or distribute works for archival, preservation, or replacement purposes?

1. Yes

68. If your national statute is included in the analysis of specific exceptions contained in Annexes 2 and 3 of the Study on Limitations and Exceptions for the Visually Impaired (document SCCR/15/7)⁴, do you consider that the analysis is correct?

1. Yes

69. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for persons with print disabilities⁵ or visually impaired persons,

including the reading impaired?

1. Yes

under the current Section 13(2) and new provisions for visually impaired persons

70. Does your national statute specify the formats (for instance, Braille or large print) that fall under this exception?

1. Yes

71. What other conditions must be met in order for such uses to be authorized?

As the minister may prescribe

72. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to persons with print disabilities or visually impaired persons, including the reading impaired?

1. Yes

For non profit purpose

73. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for deaf persons?

1. Yes

74. Does your national statute specify the formats that fall under this exception?

2. No

But under the new amendment provisions it is inserted into Braille

75. What other conditions must be met in order for such uses to be authorized?

1. Yes

Must be prescribed by the Minister

76. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to the deaf persons?

1. Yes

77. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for persons with any other disabilities?

1. Yes

78. Does your national statute specify the formats that fall under this exception?

1. Yes

79. What other conditions must be met in order for such uses to be authorized?

Must be prescribed by the Minister

80. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to persons with any other disabilities?

2. No

81. Does your country have plans to include or modify the specific exceptions related to persons with print disabilities, visually impaired persons or other persons with disabilities?

1. Yes

To further expand the exceptions for visually impaired person

82. If not, what other the limitations and exceptions for persons with disabilities would be required?

83. Are there impediments to the use of the limitations and exceptions for persons with disabilities (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

1. Yes

International constraints

84. Does your national statute provide limitations and exceptions for religious, social and cultural purposes?

1. Yes

85. In case of affirmative answer to the previous question, what kind of activities are those limitations and exceptions related to?

1. Religious activities

86. Does your national statute subject the exercise of limitations and exceptions for religious purposes to the condition of the nature of the religious activities?

1. Yes

87. Does your national statute provide remuneration for the exercise of limitations and exceptions for religious purposes?

1. Yes

88. Does your national statute subject the exercise of limitations and exceptions for religious purposes to any

specific requirement regarding the extent and nature of the works or objects of related rights?

1. Yes

Section 13(2)(k)

89. Does your national statute subject the exercise of limitations and exceptions for cultural purposes to the condition of the nature of the cultural activities?

1. Yes

Section 13(2)(k)

90. Does your national statute provide remuneration for the exercise of limitations and exceptions for cultural purposes

1. Yes

91. Does your national statute provide for any specific requirement regarding the extent and nature of the works or objects of related rights covered by the limitations and exceptions for cultural purposes?

1. Yes

Section 13(2)(k)

92. Does your national statute subject the exercise of limitations and exceptions for social purposes to the condition of the nature of social activities?

1. Yes

Section 13(2)(k)

93. Does your national statute provide remuneration for the exercise of limitations and exceptions for social purposes?

1. Yes

94. Does your national statute subject the exercise of limitations and exceptions for social purposes to any specific requirement regarding the extent and nature of the works or objects of related rights?

1. Yes

Section 13(2)(k)

95. Does your national statute provide any limitations or exceptions for reverse engineering?

1. Yes

96. Does your national statute impose any kind of liability (direct, indirect, or secondary) according to which a party can be held liable for the copyright infringement of third parties under certain circumstances (such as when that party has the ability to control an infringer's actions or contributes to a third party's infringing actions)?

1. Yes

97. With respect to liability that arises from the infringing activities of third parties, does your national statute, for purposes such as to encourage online service providers to cooperate with rightsholders in deterring infringement, provide limitations or exceptions, or statutory safe harbors, to the liability of online service providers in any way?

1. Yes

 Inserted in the new Service Providers Liability

98. With respect to liability that arises from the infringing activity of a third party, for which of the following activities, if any, does your national statute provide limitations or exceptions, or statutory safe harbors, to the liability of online service providers?

1. Acting as a conduit for infringing material (e.g., transmitting, routing, or supplying connections for material)
4. Providing access by means of information search tools such as indices, references, hyperlinks and directories to infringing materials that users post

99. What conditions, if any, must be met in order for an online service provider to qualify for the limitation of liability, exception to liability, or statutory safe harbor?

 If they do not operate according to the new section provisions on Service Providers

100. Are the following limitations or exceptions included in your national statute? (more than one option can be selected)

2. news reporting
4. incidental uses
5. government uses

101. Does your national statute include limitations and exceptions for any other activities that are not covered in the questionnaire so far?

2. No

102. Has your country signed, or is in the process of negotiating, a Free Trade Agreement (FTA) containing clauses on copyright and related rights exceptions and limitations?

1. Yes

 Process of negotiation with Australia-Malaysia FTA

103. If so, with which country or group of countries?

 Australia, US

104. Please add any further comments and information you deem interesting for this questionnaire.

The questionnaire has covered mostly all the areas of copyright and related rights .