GOVERNMENT NOTICE NO. 16

COPYRIGHT ACT

(CAP. 49:03)

COPYRIGHT (PUBLIC LENDING RIGHT) REGULATIONS, 2021

IN EXERCISE of powers conferred by section 119 of the Copyright Act, I, DR MICHAEL BIZWICK USI, Minister of Tourism, Culture and Wildlife, make the following Regulations—

Citation

1. These Regulations may be cited as the Copyright (Public Lending Right), Regulations, 2021.

Interpretation

2. In these Regulations, unless the context otherwise requires—

"author" means the person who creates a work other than an audio visual work;

"authorized person" means member of staff of a public library and any other authorized person;

"authorized purposes" means all purposes within or in support of the mandate of an institution which is authorized under these Regulations;

"copyright protected works" means literary, dramatic, musical and, or artistic works, derivative works and typographic arrangements of works and similar materials otherwise protected under the Act;

"financial year" means the financial year of the Government;

"public library" means a resource or learning centre with a collection of published copyright works for rental funded by the Government;

"public lending right" means an exclusive right that an author has on his work to authorize or prohibit the lending out of his work to the public;

"public lending right remuneration" means the remuneration authors receive from Government through the Society as compensation for the free lending of their books in public libraries;

"published work" means work which, with the consent of the author, has been made available to the public in tangible copies in a quantity sufficient to satisfy a reasonable demand for the work;

"publisher" means a person who invests resources in making a work available to the public;

"rightsholder" means an author, publisher, illustrator and translator of works;

"registration" means registration of authors, publishers, illustrators and translators into the Public Lending Right scheme;

"rental" means distribution by way of rental, lease, hire or similar arrangement;

"staff member" means full time employee or individual working for a public library under contract or a part time employee whose combined ordinary working hours are counted in proportion to a full time employees' ordinary working hours; and

"repertoire" means those published works published in or outside of Malawi by any author or publisher, estate of an author or publisher or other person with a copyright interest in the published works who, by assignment, grant of licence, by appointment as an agent, express or implied, reciprocal agreement or otherwise, has authorized Copyright Society of Malawi to collectively administer reprographic reproduction rights in the said published works.

Application

3. These Regulations shall apply to all public libraries in Malawi.

Rights

4.—(1) Authors, publishers, illustrators and translators of works shall be entitled to be compensated by the Government of Malawi for the use or lending out of their copyright protected works in public libraries which use or lending out is done free of charge.

(2) The right granted in subregulation (1) shall be valid only for the purposes in respect of which it has been issued and for the period, and with respect to the premises specified thereon.

Obligations of public libraries

5. Public libraries shall—

(*a*) record all books borrowed from the library and submit the same every quarter to the Society specifying the author and publisher of each published work as well as the number of times the book has been borrowed;

(*b*) ensure that only original published works are lent out to the public; and

(*c*) submit data to Society on volume of books at the library at least thirty days after the end of each financial year.

Obligations of rights holders

6.—(1) Rights holders shall ensure that they register their published works with the Society.

(2) The information submitted pursuant to subregulation (1) shall form part of the repertoire for the Public Lending Right scheme.

Obligation of the Government

7.—(1) The Government shall ensure that funds for remuneration for the Public Lending Right is factored in the Government budget every financial year.

(2) The Government shall ensure that the Public Lending Right remuneration is paid timely at least within ninety days at the beginning of each financial year.

Reporting and payments

8. The Government shall pay, during each financial year and on behalf of all public libraries in Malawi, a remuneration to the Society calculated by multiplying the total number of books by local Malawian authors in all the public libraries by the rate of K200.00 per book subject to a minimum annual fee of K4,000,000.00.

License

9. Once payment under regulation 8 has been made, the Society shall within thirty days, issue licences to all public libraries which the libraries will have to publicly display in a prominent and visible position within the institution.

Distribution of remuneration

10. The Society shall pay appropriate remuneration to the person, persons or associations entitled thereto, out of the fees collected under these Regulations, in accordance with its procedures of distribution of royalties.

Survey

11.—(1) The Society may, at intervals and in consultation with a public library, conduct a bibliographic and volume survey.

(2) The Society shall give a public library a notice of at least one month to before conducting the survey.

(3) Upon request, the public library shall participate in the survey and shall ensure that all authorized persons cooperate fully with the requirements of the survey.

(4) The public library shall grant the Society access to the institutions' premises, at any reasonable times, to administer the survey and such access may be subject to reasonable arrangement for supervision as required by the institution to ensure the security of its premises, including its computer systems and networks, and to maintain the confidentiality of personal or other confidential data.

Offences and penalties

12. Any person who contravenes these Regulations commits an offence and shall be liable to a fine of K5,000,000.00 and imprisonment for two years.

SCHEDULE (reg. 5(*c*))

PROGRAMME RETURNS OF WORKS BORROWED FROM A PUBLIC LIBRARY

I/We.....Manager(s) of..... provide the following information of books borrowed from our library as required by the copyright Act.

Address.....

Location ..... Telephone No.....

District ..... Email.....

Title of Book	*Author*	*Publisher*	*Number of times Borrowed*
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

If more than 10, use a separate sheet.

I/We..... the Manager of the above institution declare that the information given above is true to the best of my/our knowledge and belief.

Declared at..... on day.... of.....20.....

.....

Applicant's signature

FOR OFFICIAL USE ONLY

Received by:

Name of licensing officer.....

Date..... .....

Signature of licensing officer

Return to:
The Copyright Administrator
Copyright Society of Malawi
P.O. Box 30784
Lilongwe 3
Tel: 751 148 Email: cosoma@cosoma.mw

Made this 23rd of February, 2021.

DR. M. B. USI
Minister of Tourism, Culture and Wildlife

(FILE NO.MHQ/CUL/03/1)