

Chapter:	544	PREVENTION OF COPYRIGHT PIRACY ORDINANCE	Gazette Number	Version Date
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		Long title	L.N. 235 of 1998	29/05/1998
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An Ordinance to make further provision for the prevention of copyright piracy.

[The Ordinance (other than sections }  
21 and 22)

29 May 1998

Sections 21 and 22 }

29 August 1998

*L.N. 235 of 1998]*

(Originally 22 of 1998)

Section:	1	Short title	L.N. 46 of 2001	01/04/2001
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## PART I

### PRELIMINARY

(Replaced 64 of 2000 s. 19)

- (1) This Ordinance may be cited as the Prevention of Copyright Piracy Ordinance.
- (2) (Omitted as spent)

Section:	2	Interpretation	L.N. 46 of 2001	01/04/2001
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- (1) In this Ordinance, unless the context otherwise requires-
- "authorized officer" (獲授權人員) means a public officer authorized by the Commissioner under section 32;
- "building" (建築物) includes any fixed structure, and a part of a building or fixed structure; (Added 64 of 2000 s. 20)
- "Commissioner" (關長) means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise;
- "court" (法院) includes a magistrate;
- "licence" (特許) means a licence granted under section 5;
- "licensed premises" (獲批特許的處所), in relation to a licensee, means any premises specified in his licence in which optical discs are authorized to be manufactured;
- "licensee" (特許持有人) means a person to whom a licence is granted, and includes any person to whom a licence is transferred in accordance with section 8;
- "manager" (管理人), in relation to a place of public entertainment, means the person responsible for the control or management of that place at the material time; (Added 64 of 2000 s. 20)
- "manufacturer's code" (製造者代碼) means a manufacturer's code assigned to a licensee under section 5(2)(a) or 8(3)(b);
- "optical disc" (光碟) includes-
- (a) any medium or device listed in Schedule 1; and
  - (b) any other medium or device on which data may be stored in digital form and read by means of a laser, and, for greater certainty, includes any such medium or device manufactured for any purpose and whether or not any data readable by means of a laser has been stored on it;
- "performance" (表演) includes the meanings assigned to it by sections 27(2) and 200(2) of the Copyright Ordinance (Cap 528); (Added 64 of 2000 s. 20)
- "place" (地方) means any area on land or water and includes any building, structure or enclosure, whether moveable or not;
- "place of public entertainment" (公眾娛樂場所) means any building that is-

- (a) used primarily as a cinema, theatre or concert hall for the showing or playing of films or the performance of literary, dramatic or musical works; and
  - (b) required to be licensed under the Places of Public Entertainment Ordinance (Cap 172),
- and includes any building that is used as described in paragraph (a) the management and control of which is vested in the Government, but does not include a foyer; (Added 64 of 2000 s. 20)

"register" (登記冊) means the register kept by the Commissioner under section 31;

"video recording equipment" (攝錄器材) means any device that is capable of making a recording, on any medium, from which a moving image may by any means be produced or that may enable such recordings to be made, either in the same place at which it is used, or by electronic or other transmission at another place. (Added 64 of 2000 s. 20)

(2) For the purpose of this Ordinance, a person manufactures optical discs in Hong Kong if he owns, directs, manages or otherwise has control of a business in Hong Kong which includes the manufacturing of optical discs in Hong Kong.

(3) All other words and expressions used in this Ordinance and defined in the Copyright Ordinance (Cap 528) have the same meaning as in that Ordinance.

Section:	3	Licence to manufacture optical discs	L.N. 46 of 2001	01/04/2001
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## PART II

### MANUFACTURING OF OPTICAL DISCS

#### Licences to manufacture

(Replaced 64 of 2000 s. 21)

- (1) No person shall manufacture optical discs in Hong Kong unless he holds a valid licence.
- (2) Subsection (1) does not apply-
  - (a) to an employee of a licensee who manufactures optical discs in the course of his employment; or
  - (b) to the manufacture of optical discs for a purpose prescribed by the regulations.

Section:	4	Prohibition on manufacturing at unlicensed premises	L.N. 235 of 1998	29/05/1998
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- (1) No licensee shall manufacture optical discs in any place in Hong Kong other than a licensed premises.
- (2) Subsection (1) does not apply to the manufacture of optical discs for a purpose prescribed by the regulations.

Section:	5	Application for and grant of licence	L.N. 29 of 2004	27/02/2004
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- (1) The Commissioner may grant a licence to any person who makes an application for a licence in accordance with this Part. (Amended 64 of 2000 s. 22)
- (2) In granting a licence, the Commissioner-
  - (a) shall assign to the licensee a manufacturer's code; (Amended L.N. 29 of 2004)
  - (b) shall impose all of the conditions as may be published by him from time to time by notice in the Gazette for the purpose of this section; and
  - (c) may impose such other conditions as he thinks fit for-
    - (i) preventing the manufacture of infringing copies of copyright works;
    - (ii) protecting the rights of copyright owners and other persons to whom rights are conferred under the Copyright Ordinance (Cap 528);
    - (iii) securing compliance by the licensee with any provisions of this Part or any regulations made for the purposes of this Part; (Amended 64 of 2000 s. 22)
    - (iv) securing compliance by the licensee with any conditions of the licence; and
    - (v) ensuring the effective administration of this Part. (Amended 64 of 2000 s. 22)
- (3) A manufacturer's code shall consist of-
  - (a) one or more letters or numbers;

- (b) a mark, sign, symbol or device; or
  - (c) any combination of letters, numbers, marks, signs, symbols or devices,
- as determined by the Commissioner.

(4) A notice published under subsection (2)(b) shall not be regarded as subsidiary legislation.

Section:	6	Form, duration and effect of licence	L.N. 235 of 1998	29/05/1998
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(1) Every licence shall be in a form determined by the Commissioner and shall be valid for such period, not exceeding 3 years, as is specified in the licence.

(2) Every licence shall authorize the person named therein to manufacture optical discs in the premises specified in the licence.

(3) The following matters shall be endorsed on a licence-

- (a) any conditions imposed under section 5(2) or 8(3);
- (b) the manufacturer's code assigned to the licensee;
- (c) any amendments made to the licence under section 7 or to any conditions endorsed on the licence under section 8(3); and
- (d) any transfer of the licence approved under section 8.

Section:	7	Amendment and renewal of licence	L.N. 46 of 2001	01/04/2001
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(1) The Commissioner may amend or renew a licence upon application made by the licensee in accordance with this Part. (Amended 64 of 2000 s. 23)

(2) An application to amend or renew a licence must be made during such period as the Commissioner may specify.

(3) Sections 5 and 6 apply, with such modifications as the circumstances require, to the amendment or renewal of a licence under this section.

Section:	8	Transfer of licence	L.N. 46 of 2001	01/04/2001
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(1) A licensee may transfer his licence to another person if the Commissioner approves the transfer under subsection (2).

(2) The Commissioner may upon application made by a licensee in accordance with this Part, showing cause to his satisfaction, approve the transfer of the licence to another person. (Amended 64 of 2000 s. 23)

(3) In approving the transfer of a licence, the Commissioner may-

- (a) amend any conditions endorsed on the licence or impose any new conditions as he thinks fit, including any conditions referred to in section 5(2)(b); and
- (b) assign to the person to whom the licence is transferred a manufacturer's code in substitution for the manufacturer's code endorsed on the licence.

Section:	9	Display of licence	L.N. 235 of 1998	29/05/1998
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(1) Subject to subsection (2), a licensee shall cause his licence to be displayed at all times in a conspicuous location at the licensed premises.

(2) If there is more than one licensed premises, the licensee shall-

- (a) cause the licence to be displayed at any of the licensed premises; and
- (b) obtain a duplicate licence from the Commissioner for each other licensed premises and cause it to be displayed at all times in a conspicuous location at that licensed premises.

Section:	10	New information to be furnished	L.N. 46 of 2001	01/04/2001
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(1) A licensee shall notify the Commissioner of any change which occurs in relation to any particulars set out in-

- (a) any application made by him under this Part; or (Amended 64 of 2000 s. 23)
- (b) any notice previously given by him under this section.

- (2) The licensee shall so notify the Commissioner not later than 30 days after the change takes effect.
- (3) A notice under this section shall be given in such form and manner as the Commissioner may require.

Section:	11	Refusal to grant or renew licence	L.N. 235 of 1998	29/05/1998
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- (1) The Commissioner may refuse to grant a licence, or to renew a licence, if he is satisfied that-
  - (a) the applicant for the licence or renewal, or a partnership or body corporate managed, owned or controlled by him, has been convicted of an offence under this Ordinance or the Copyright Ordinance (Cap 528) or under any previous law of Hong Kong relating to copyright;
  - (b) an offence under this Ordinance or the Copyright Ordinance (Cap 528) or under any previous law of Hong Kong relating to copyright has been committed in connection with any premises to which the application for the licence or renewal relates, whether or not any person has been convicted of that offence;
  - (c) the applicant has furnished to the Commissioner any false or misleading information in connection with any application made, or notice given, by him under this Ordinance; or
  - (d) the applicant is not, for any other reason satisfactory to the Commissioner, a fit and proper person to hold a licence.

(2) If the Commissioner refuses to grant or renew a licence, he shall notify the applicant in writing of the grounds for the refusal within 14 days after his decision.

Section:	12	Revocation of licence	L.N. 235 of 1998	29/05/1998
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(1) The Commissioner may revoke a licence on any of the grounds for which he may refuse to grant or renew a licence under section 11(1).

(2) In addition, the Commissioner may revoke a licence if he is satisfied that the licensee-

- (a) has ceased to manufacture optical discs in Hong Kong;
- (b) has ceased to manufacture optical discs at any licensed premises; or
- (c) is in breach of, or is unable to comply with, any conditions endorsed on the licence.

(3) The Commissioner shall not revoke a licence unless he first-

- (a) notifies the licensee in writing of his intention and the grounds upon which he proposes to revoke the licence; and
- (b) permits the licensee to make representations to him in writing.

(4) Representations under subsection (3)(b) shall be made within 14 days from the date of the notification under subsection (3)(a) or within such greater period as is specified in the notice.

(5) If the Commissioner revokes a licence, he shall notify the licensee in writing of the grounds for the revocation within 14 days after his decision.

(6) For the purpose of subsection (1)-

- (a) any reference in section 11(1) to an applicant shall be construed as a reference to a licensee; and
- (b) the reference in section 11(1)(b) to the application for the licence or renewal shall be construed as a reference to the licence.

Section:	13	Cancellation of licence	L.N. 46 of 2001	01/04/2001
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The Commissioner may cancel a licence upon application made by the licensee in accordance with this Part.

(Amended 64 of 2000 s. 23)

Section:	14	Appeals to Administrative Appeals Board	L.N. 235 of 1998	29/05/1998
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Any person who is aggrieved by a decision of the Commissioner made under section 11 or 12 may appeal the decision to the Administrative Appeals Board.

Section:	15	Optical discs must be marked with manufacturer's code	L.N. 235 of 1998	29/05/1998
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### Marking of optical discs

(1) Every licensee shall cause each optical disc manufactured by him in Hong Kong to be marked with the manufacturer's code endorsed on his licence.

(2) Subsection (1) does not apply to the manufacture of optical discs for a purpose prescribed by the regulations.

(3) In this section, "marked" (標上) means to be marked in accordance with the standards specified by the Commissioner under section 16.

Section:	16	Marking standards	L.N. 235 of 1998	29/05/1998
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(1) The Commissioner may by notice published in the Gazette specify standards for the marking of manufacturers' codes on optical discs.

(2) Without limiting the generality of subsection (1), a notice published under this section may-

- (a) specify standards in relation to different classes or descriptions of optical discs;
- (b) specify standards relating to the manner in which, and the means by which, manufacturers' codes are to be marked on optical discs or on optical discs of any class or description; and
- (c) adopt or incorporate by reference standards that have been published by any body or authority, with or without modification and either as in effect on a particular date specified in the notice or as amended from time to time.

(3) A notice published under this section shall not be regarded as subsidiary legislation.

Section:	17	Power of authorized officers to inspect licensed premises, etc.	L.N. 46 of 2001	01/04/2001
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### Inspection and enforcement

(1) Every authorized officer shall for the purposes of this Part have power to do all or any of the following things- (Amended 64 of 2000 s. 24)

- (a) to enter at all reasonable times (or, if specially authorized in writing by the Commissioner, at any time) any licensed premises;
- (b) to inspect and search the licensed premises and every part thereof;
- (c) to require the production of any licence relating to the operation of the licensed premises or the business concerned, whether granted under this Part or otherwise; (Amended 64 of 2000 s. 24)
- (d) to require the production of any book or document relating to the business concerned, including any licence or other document relating to a person's right to manufacture optical discs;
- (e) to inspect, remove and detain for the purpose of examination for so long as the Commissioner may consider necessary and to examine and copy any such licence, book or document;
- (f) to remove and detain for the purpose of examination for so long as the Commissioner may consider necessary and to examine samples of optical discs found in the licensed premises;
- (g) to make such examination and inquiry as may be necessary to ascertain whether-
  - (i) the provisions of this Part or any regulations made for the purposes of this Part;
  - (ii) the provisions of the Copyright Ordinance (Cap 528); or
  - (iii) the conditions of any licence granted under this Part, are being, or have been, complied with; and (Replaced 64 of 2000 s. 24)
- (h) to exercise such other powers as may be necessary for giving effect to the provisions of this Part. (Amended 64 of 2000 s. 24)

(2) A licensee and the employees, servants or agents of a licensee shall furnish the means required by an authorized officer to enable him to exercise his powers or perform his duties under this section.

(3) If in pursuance of this section any authorized officer, having demanded admission into any place and declared his name and business at any entrance thereof, is not immediately admitted, he and any person acting in his aid may break into and forcibly enter the place.

Section:	18	Power of authorized officers to enter and search, etc.	L.N. 46 of 2001	01/04/2001
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(1) An authorized officer may-

- (a) subject to section 19, enter and search any place; and
- (b) stop, board and search any vessel, aircraft or vehicle (other than a ship of war, military aircraft or military vehicle),

in which he reasonably suspects that there is-

- (i) any optical disc which has been manufactured in contravention of this Part; or
- (ii) any machinery, equipment or other thing which may be or may contain, or which may likely be or contain, evidence of an offence under this Part. (Amended 64 of 2000 s. 25)

(2) An authorized officer may, in exercising his powers under subsection (1), seize, remove or detain-

- (a) any optical disc which appears to him to have been, or to be likely to have been, manufactured in contravention of this Part; and
- (b) any machinery, equipment or other thing which appears to him to be or to contain, or to be likely to be or to contain, evidence of an offence under this Part. (Amended 64 of 2000 s. 25)

(3) An authorized officer may seize, remove or detain any vessel, aircraft or vehicle (other than a ship of war, military aircraft or military vehicle) which he is empowered by this section to stop, board and search and which he reasonably suspects is being used, or to have been used, in connection with an offence under this Part. (Amended 64 of 2000 s. 25)

(4) An authorized officer may-

- (a) break into and forcibly enter any place which he is empowered by this section to enter and search;
- (b) forcibly board any vessel, aircraft or vehicle which he is empowered by this section to stop, board and search;
- (c) remove by force any person or thing obstructing him in the exercise of any power conferred on him by this section;
- (d) detain any person found in any place which he is empowered by this section to enter and search until such place has been searched; and
- (e) prevent any person from approaching or boarding any vessel, aircraft or vehicle which he is empowered by this section to stop, board and search until it has been searched.

(5) Where it is not practicable to remove any machinery, equipment or other thing pursuant to subsection (2)(b), an authorized officer may seal the machinery, equipment or other thing or the place where it is kept so as to prevent its use without breaking the seal.

(6) Where a place is sealed under subsection (5), the period for which the place is sealed shall not exceed 14 days unless an order has been made under subsection (8).

(7) The Commissioner may apply to a magistrate for an order that the period under subsection (6) be extended or further extended for such period as specified in the application.

(8) Upon an application made under subsection (7), the magistrate may, if having regard to all the circumstances of the case he thinks proper so to do, make an order extending or further extending the period under subsection (6) for such period as he thinks fit.

Section:	19	Authority to issue warrant for entry and search	L.N. 46 of 2001	01/04/2001
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(1) A magistrate may, if he is satisfied by information on oath that there are reasonable grounds for suspecting that there is in any place-

- (a) any optical disc which has been manufactured in contravention of this Part; or
- (b) any machinery, equipment or other thing which may be or may contain, or which may likely be or contain, evidence of an offence under this Part,

issue a warrant authorizing an authorized officer to enter and search the place. (Amended 64 of 2000 s. 25)

(2) Subject to subsection (3), an authorized officer shall not enter and search any place under section 18(1)(a) except under the authority of a warrant issued under this section.

(3) An authorized officer may enter and search any place under section 18(1)(a) without a warrant issued under this section if the delay necessary to obtain a warrant could result in the loss or destruction of evidence or for any other reason it would not be reasonably practicable to obtain a warrant.

Section:	20	(Repealed 64 of 2000 s. 26)	L.N. 46 of 2001	01/04/2001
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Section:	21	Manufacturing optical discs without licence, etc.	L.N. 235 of 1998	29/08/1998
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**Offences and penalties**

- (1) Any person who contravenes section 3 commits an offence and is liable-
  - (a) on a first conviction, to a fine of \$500000 and to imprisonment for 2 years; and
  - (b) on a second or subsequent conviction, to a fine of \$1000000 and to imprisonment for 4 years.
- (2) Any person who contravenes section 4 or 15 commits an offence and is liable-
  - (a) on a first conviction, to a fine at level 6 and to imprisonment for 2 years; and
  - (b) on a second or subsequent conviction, to a fine of \$200000 and to imprisonment for 4 years.
- (3) Any licensee who manufactures optical discs in contravention of any conditions endorsed on his licence commits an offence and is liable-
  - (a) on a first conviction, to a fine at level 2 and to imprisonment for 6 months; and
  - (b) on a second or subsequent conviction, to a fine at level 4 and to imprisonment for 1 year.
- (4) Any person who contravenes section 9 or 10 commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.
- (5) In any proceedings for an offence under subsection (3), it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

Section:	22	Applying false manufacturer's code, etc.	L.N. 235 of 1998	29/08/1998
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- (1) Any person who-
  - (a) forges a manufacturer's code;
  - (b) falsely applies to an optical disc a manufacturer's code or any mark so resembling a manufacturer's code as to be calculated to deceive;
  - (c) makes any die, block, machine or other instrument for the purpose of forging, or of being used for forging, a manufacturer's code;
  - (d) disposes of or has in his possession any die, block, machine or other instrument for the purpose of forging a manufacturer's code; or
  - (e) causes to be done anything referred to in paragraph (a), (b), (c) or (d),
 commits an offence.
- (2) Any person who commits an offence under subsection (1) is liable-
  - (a) on a first conviction, to a fine of \$500000 and to imprisonment for 2 years; and
  - (b) on a second or subsequent conviction, to a fine of \$1000000 and to imprisonment for 4 years.
- (3) In any proceedings for an offence under subsection (1) it shall be a defence for the person charged to prove that he acted without intent to deceive or defraud.

Section:	23	False and misleading statements	L.N. 46 of 2001	01/04/2001
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- Any person who makes any false or misleading statement or furnishes any false or misleading information in connection with-
- (a) any application made, or notice given, by him under this Part; or
  - (b) any request by the Commissioner or an authorized officer for information under this Part,
- commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months.  
(Amended 64 of 2000 s. 27)

Section:	24	(Repealed 64 of 2000 s. 28)	L.N. 46 of 2001	01/04/2001
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Section:	25	(Repealed 64 of 2000 s. 28)	L.N. 46 of 2001	01/04/2001
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Section:	26	(Repealed 64 of 2000 s. 28)	L.N. 46 of 2001	01/04/2001
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Section:	27	(Repealed 64 of 2000 s. 28)	L.N. 46 of 2001	01/04/2001
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Section:	28	(Repealed 64 of 2000 s. 28)	L.N. 46 of 2001	01/04/2001
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Section:	29	(Repealed 64 of 2000 s. 28)	L.N. 46 of 2001	01/04/2001
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Section:	30	Form of applications, etc.	L.N. 46 of 2001	01/04/2001
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### Miscellaneous

(1) Every application under this Part shall be made to the Commissioner in such form and manner as he may require.

(2) Every application made under this Part must be accompanied by-

(a) any fee applicable under Schedule 2; and

(b) a statement in writing containing such particulars as the Commissioner may require.

(3) Any application made under this Part by a body corporate may be signed by any director, manager, secretary or other similar officer of the body corporate who is authorized in that behalf by the body corporate, and the Commissioner may require such proof of the authorization as he considers necessary.

(4) Any application made under this Part by a partnership must be signed by at least one of its partners, and the Commissioner may require such proof of the partnership as he considers necessary.

(Amended 64 of 2000 s. 29)

Section:	31	Register	L.N. 235 of 1998	29/05/1998
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(1) The Commissioner shall establish and maintain a register in such form and containing such information respecting licences and manufacturers' codes as he thinks fit.

(2) The Commissioner shall make the register available to public inspection subject to such conditions as he thinks fit.

Section:	31A	Aids in proof	L.N. 29 of 2004	27/02/2004
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(1) A certificate purporting to be certified under the hand of the Commissioner and stating whether-

(a) a person named in the certificate has or has not been granted a licence;

(b) a licence granted to a person named in the certificate has or has not expired or has or has not been revoked or cancelled; or

(c) a manufacturer's code specified or described in the certificate has or has not been assigned under section 5(2)(a) or 8(3)(b) to a person named in the certificate, (Amended L.N. 29 of 2004)

shall be evidence of the matters stated therein as at the date of the certificate and shall be received in evidence in any proceedings under this Part without further proof.

(2) A copy of any licence which purports to be certified under the hand of the Commissioner shall be evidence of the licence and of the matters stated therein as at the date of the copy and shall be received in evidence in any proceedings under this Part without further proof.

(Added 64 of 2000 s. 30)

Section:	31B	Disclosure of information, inspection, release of samples, etc.	L.N. 46 of 2001	01/04/2001
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Sections 126 and 128 of the Copyright Ordinance (Cap 528) shall apply in respect of any optical disc, machinery, equipment or other thing seized, removed or detained by an authorized officer under section 18(2) or any

machinery, equipment or other thing sealed by an authorized officer under section 18(5), with such modifications as the circumstances require.

(Added 64 of 2000 s. 30)

Section:	31C	Unauthorized possession of video recording equipment in place of public entertainment prohibited	L.N. 46 of 2001	01/04/2001
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### PART III

#### POSSESSION OF VIDEO RECORDING EQUIPMENT IN PLACES OF PUBLIC ENTERTAINMENT

(1) Any person who, without lawful authority or reasonable excuse, has in his possession in a place of public entertainment any video recording equipment commits an offence and is liable-

- (a) on a first conviction, to a fine at level 2; and
- (b) on a second or subsequent conviction, to a fine at level 5 and to imprisonment for 3 months.

(2) For the purposes of subsection (1), a person shall be deemed to have video recording equipment in his possession in a place of public entertainment, notwithstanding that it is not in his actual possession, if he knowingly and wilfully has it in the actual custody or possession of some other person in that place, or has it in that place, whether the video recording equipment is in such custody, possession or place for the use of that person or for the use or benefit of another person.

(3) For the purposes of subsection (1), a person has lawful authority to possess video recording equipment in a place of public entertainment if the manager of the place, or any person authorized in that behalf by the manager, expressly consents to that possession.

(Part III added 64 of 2000 s. 31)

Section:	31D	Refusal of admission, etc.	L.N. 46 of 2001	01/04/2001
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(1) Notwithstanding any other law, it shall be lawful for the manager of a place of public entertainment, or any person authorized in that behalf by the manager, to refuse to admit to that place, or to require to leave that place, any person who has in his possession any video recording equipment.

(2) Where a person fails to leave a place of public entertainment after being required to do so under subsection (1), the manager, or any person authorized in that behalf by the manager, may remove that person from that place by the use of reasonable force if necessary.

(Part III added 64 of 2000 s. 31)

Section:	31E	Display of notices	L.N. 46 of 2001	01/04/2001
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(1) The manager of a place of public entertainment shall display and keep displayed notices, in English and Chinese, to the effect that the unauthorized possession of video recording equipment in that place is prohibited, which notices shall be in the prescribed form and include the prescribed statements.

(2) The manager shall display the notices referred to in subsection (1) in the manner and in the locations required by the regulations.

(3) The manager shall maintain the notices referred to in subsection (1) in legible condition and good order.

(4) Any manager who contravenes subsection (1), (2) or (3) commits an offence and is liable on conviction to a fine at level 2.

(5) In this section, "manager" (管理人) also includes any person who holds or is required to hold a licence granted under the Places of Public Entertainment Ordinance (Cap 172) in relation to the place of public entertainment.

(Part III added 64 of 2000 s. 31)

Section:	31F	Power of authorized officers to enter and search, etc.	L.N. 46 of 2001	01/04/2001
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(1) An authorized officer may, with the consent of the manager or any person authorized in that behalf by the manager, and without a warrant and without payment of any admission fee or other charge, enter and search any place

of public entertainment.

- (2) An authorized officer may enter and search any place of public entertainment without a warrant and without the consent of the manager or any other person, and without payment of any admission fee or other charge, if-
- (a) the authorized officer has reason to suspect that any offence under this Part has been or is being committed; and
  - (b) the delay necessary to obtain a warrant could result in the loss or destruction of evidence or for any other reason it would not be reasonably practicable to obtain a warrant.
- (3) An authorized officer may, in exercising his powers under subsection (1) or (2)-
- (a) search any person if he has reason to suspect that the person has in his actual possession any video recording equipment in respect of which an offence has been committed under section 31C; and
  - (b) seize, remove or detain any video recording equipment or other thing which appears to him to be or to contain, or to be likely to be or to contain, evidence of an offence under this Part.
- (4) An authorized officer may-
- (a) use reasonable force to remove any person or thing obstructing him in the exercise of any power conferred on him by this section;
  - (b) detain any person found in any place which he is empowered by this section to enter and search if, after inquiry, he has reasonable grounds for believing the person is connected with the subject-matter of the search and he considers it necessary to detain the person in order to be able to adequately perform the search; and
  - (c) require the manager of the place or any other person who appears to be at the time responsible for the control or management of the place to give information or render assistance that may be necessary to enable the authorized officer to carry out his functions under this section.

(Part III added 64 of 2000 s. 31)

Section:	32	Appointment of authorized officers	L.N. 46 of 2001	01/04/2001
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#### PART IV

#### GENERAL

(Added 64 of 2000 s. 32)

The Commissioner may authorize in writing any public officer to exercise any of the powers and perform any of the duties conferred or imposed on an authorized officer by this Ordinance.

Section:	33	Protection of the Commissioner, authorized officers and persons assisting them	L.N. 235 of 1998	29/05/1998
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(1) The Commissioner and authorized officers are not liable for any loss or damage suffered by any person as a result of any action taken or omitted to be taken by them in good faith in the exercise of their powers or the performance of their duties under this Ordinance.

(2) Any person may act in aid of an authorized officer who appears to be lawfully engaged in the exercise of any power or the performance of any duty under this Ordinance upon being requested by the authorized officer to do so and without being bound to inquire whether or not the authorized officer is acting lawfully or within the scope of his powers or duties.

(3) A person acting in good faith in aid of an authorized officer under subsection (2) is not liable for any loss or damage suffered by any person as a result of any action taken or omitted to be taken by him while so acting.

(4) Nothing in this section shall affect any civil liability of the Government for the wrongful acts of its servants.

Section:	33A	Obstruction of authorized officers	L.N. 46 of 2001	01/04/2001
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(1) Without prejudice to any other Ordinance, any person who-

- (a) wilfully obstructs an authorized officer in the exercise of his powers or the performance of his duties under this Ordinance;
- (b) wilfully fails to comply with any requirement properly made to him by any such authorized officer;
- (c) without reasonable excuse, fails to give such authorized officer any other assistance which he may

reasonably require to be given for the purpose of exercising his powers or performing his duties under this Ordinance; or

(d) breaks or interferes with a seal affixed by an authorized officer under section 18(5), commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

(2) Any person who, when required to give information to the Commissioner or an authorized officer in the exercise of his powers or the performance of his duties under this Ordinance, knowingly gives false or misleading information commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

(3) Nothing in this section requires any person to give any information which may incriminate him.

(4) No person commits an offence under subsection (1)(d) if he breaks or interferes with a seal affixed by an authorized officer under section 18(5)-

(a) in the bona fide belief that it is necessary immediately to break or interfere with the seal in order to prevent injury being suffered by any person or damage being incurred to any premises, place, machinery, equipment or other thing; or

(b) in the exercise of his duties as a public officer.

(Added 64 of 2000 s. 33)

Section:	34	Seized optical discs, etc., liable to forfeiture	4 of 2004	01/09/2004
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(1) Any optical disc, machinery, equipment, video recording equipment or other thing seized, removed, detained or sealed by an authorized officer under this Ordinance is liable to forfeiture in accordance with this section and whether or not any person has been charged with an offence under this Ordinance.

(2) Sections 131 and 133 of the Copyright Ordinance (Cap 528) shall apply in respect of anything liable to forfeiture under subsection (1), with such modifications as the circumstances require.

(3) For the purpose of applying sections 131 and 133 of the Copyright Ordinance (Cap 528), any reference in those sections to-

(a) an offence under section 118, 119A or 120 of that Ordinance shall be construed as a reference to an offence under this Ordinance; (Amended 4 of 2004 s. 7)

(b) an article, vessel, aircraft, vehicle or thing seized or detained by an authorized officer under section 122 of that Ordinance shall be construed as a reference to any optical disc, machinery, equipment, video recording equipment or other thing seized, removed, detained or sealed by an authorized officer under this Ordinance; or

(c) section 132 of that Ordinance shall be construed as a reference to section 35 of this Ordinance.

(Replaced 64 of 2000 s. 34)

Section:	35	Disposal of optical discs, etc., where a person is charged	L.N. 46 of 2001	01/04/2001
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Without prejudice to section 34, where a person is charged with an offence under this Ordinance, the court may, if it is satisfied that-

(a) any optical disc seized, removed or detained by an authorized officer under this Ordinance in connection with the offence has been manufactured in contravention of this Ordinance; or

(b) any machinery, equipment, video recording equipment or other thing seized, removed, detained or sealed by an authorized officer under this Ordinance has been used in connection with any offence under this Ordinance,

order that the optical disc, machinery, equipment, video recording equipment or other thing be-

(i) forfeited to the Government; or

(ii) disposed of in such other way as the court may think fit,

whether or not the person charged is convicted of the offence with which he was charged.

(Replaced 64 of 2000 s. 34)

Section:	36	Compensation for seizure, etc.	L.N. 46 of 2001	01/04/2001
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(1) Where any optical disc, machinery, equipment, video recording equipment or other thing is seized, removed, detained or sealed by an authorized officer under this Ordinance, the Government shall, subject to this section, be liable to compensate the owner thereof for any loss suffered by him by reason of the seizure, removal, detention or sealing thereof or by reason that the optical disc, machinery, equipment, video recording equipment or

other thing is lost or damaged during the period when it is detained or sealed; but the owner shall not be entitled to compensation for any such loss if-

- (a) the optical disc, machinery, equipment, video recording equipment or thing is forfeited under section 34 or 35;
- (b) the owner has been convicted of an offence under this Ordinance or the Copyright Ordinance (Cap 528) committed in relation to the optical disc, machinery, equipment, video recording equipment or thing; or
- (c) an order has been made in respect of the optical disc, machinery, equipment, video recording equipment or thing under section 35.

(2) In any proceedings against the Government in respect of a claim for compensation on any of the grounds referred to in subsection (1), the amount of the compensation recoverable shall be such amount as is just and equitable in all the circumstances of the case, including the conduct and comparative blameworthiness of-

- (a) the owner of the optical disc, machinery, equipment, video recording equipment or thing;
- (b) the person in charge or control of the optical disc, machinery, equipment, video recording equipment or thing at the time it was seized, removed, detained or sealed;
- (c) the agents of the person specified in paragraphs (a) and (b); and
- (d) authorized officers, public officers and other persons concerned.

(3) No proceedings shall be maintainable in respect of any claim for compensation on any of the grounds referred to in subsection (1) unless the proceedings are commenced-

- (a) in the case of a claim for compensation in respect of any optical disc, machinery, equipment, video recording equipment or thing delivered to its owner by order of a court or magistrate or by any person having authority to deliver the optical disc, machinery, equipment, video recording equipment or thing to him, not later than 6 months after the delivery thereof;
- (b) in the case of a claim for compensation on the ground that any optical disc, machinery, equipment, video recording equipment or thing was lost during the period when it was detained or sealed, not later than 6 months after-
  - (i) the discovery by the owner of the existence of such ground; or
  - (ii) the date on which the owner could, by the exercise of reasonable diligence, have discovered the existence of such ground,
 whichever is the earlier.

(Replaced 64 of 2000 s. 34)

Section:	36A	Offences related to disclosure of information	L.N. 46 of 2001	01/04/2001
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(1) Subject to subsection (2), any person who discloses to any other person any information obtained by him in pursuance of this Ordinance commits an offence unless the disclosure was made-

- (a) for the purpose of the performance by him or any other person of duties or functions under this Ordinance; or
- (b) under the direction or order of a court.

(2) A person does not commit an offence under subsection (1) by disclosing information pursuant to section 31B or 37.

(3) Any person who commits an offence under subsection (1) is liable on conviction to a fine at level 4 and to imprisonment for 1 year.

(Added 64 of 2000 s. 34)

Section:	36B	Liability of persons other than principal offender	L.N. 46 of 2001	01/04/2001
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(1) Where a body corporate commits an offence under this Ordinance in respect of any act which is proved to have been committed with the consent or connivance of, or to be attributable to any act on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he, as well as the body corporate, commits the offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Ordinance committed by a partner in a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any act on the part of, any other partner of the

partnership or any person concerned in the management of the partnership, that other partner or the person concerned in the management of the partnership commits the like offence.

(Added 64 of 2000 s. 34)

Section:	36C	Protection of informers	L.N. 46 of 2001	01/04/2001
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(1) Save where, in the opinion of the court, justice so requires, the name or identity of any informer and the information given by such informer shall not be disclosed in any proceedings for an offence under this Ordinance.

(2) The court may make any order and adopt any procedure necessary to prevent any such disclosure.

(Added 64 of 2000 s. 34)

Section:	36D	Time limit for prosecutions	15 of 2007	06/07/2007
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No prosecution for an offence under this Ordinance shall be commenced after the expiration of 3 years from the date of commission of the offence.

(Added 64 of 2000 s. 34. Amended 15 of 2007 s. 78)

Section:	37	Multilateral co-operation	L.N. 235 of 1998	29/05/1998
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The Commissioner may, for the purpose of promoting multilateral co-operation in the protection of intellectual property rights, disclose information obtained in pursuance of this Ordinance to the customs authorities or other authorities responsible for the enforcement of intellectual property rights of-

- (a) any country, territory or area which is, at the relevant time, a member of the World Trade Organization; or
- (b) such other country, territory or area as the Commissioner thinks fit.

Section:	38	Regulations	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

The Secretary for Commerce and Economic Development may make regulations- (Amended L.N. 173 of 2000; L.N. 106 of 2002; L.N. 130 of 2007)

- (a) prescribing anything required or permitted to be prescribed under this Ordinance; (Amended 64 of 2000 s. 35)
- (aa) for the purposes of any provision of this Ordinance which contemplates or authorizes the making of regulations with respect to any matter; and (Added 64 of 2000 s. 35)
- (b) for the better carrying into effect of the provisions of this Ordinance in relation to any matter.

Section:	39	Amendment of Schedules	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

The Secretary for Commerce and Economic Development may by order amend Schedule 1 or 2.

(Amended L.N. 173 of 2000; L.N. 106 of 2002; L.N. 130 of 2007)

Section:	40	Saving for other enactments	L.N. 46 of 2001	01/04/2001
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The provisions of this Ordinance are in addition to and not in derogation of the provisions of-

- (a) the Copyright Ordinance (Cap 528); or
- (b) any other Ordinance relating to the manufacture of optical discs or the operation of places of public

entertainment. (Amended 64 of 2000 s. 36)

Section:	41	(Omitted as spent)	L.N. 235 of 1998	29/05/1998
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(Omitted as spent)

Section:	42	(Omitted as spent)	L.N. 235 of 1998	29/05/1998
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(Omitted as spent)

Section:	43	(Omitted as spent)	L.N. 235 of 1998	29/05/1998
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(Omitted as spent)

Section:	44	(Omitted as spent)	L.N. 235 of 1998	29/05/1998
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(Omitted as spent)

Section:	45	(Omitted as spent)	L.N. 235 of 1998	29/05/1998
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(Omitted as spent)

Section:	46	(Omitted as spent)	L.N. 235 of 1998	29/05/1998
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(Omitted as spent)

Schedule:	1	OPTICAL DISCS	L.N. 51 of 2002	19/07/2002
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[sections 2 & 39]

1. CD (compact disc).
2. CD-ROM (compact disc-read only memory).
3. CD-R (compact disc-recordable).
4. CD-RW (compact disc-rewritable).
5. CD-W (compact disc-writable).
6. DVD (digital video disc).
7. DVD-ROM (digital video disc-read only memory).
8. LD (laserdisc).
9. MD (mini-disc).
10. VCD (video compact disc).
11. Stamper. (Added L.N. 51 of 2002)

Schedule:	2	FEES	L.N. 119 of 2001	13/07/2001
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[sections 30 & 39]

Item	Matter or proceeding	Amount
		\$
1.	Application for licence	5500
2.	Application for renewal of licence (Amended L.N. 119 of 2001)	1270
3.	Application for transfer of licence	5500