



# Copyright (Infringing File Sharing) Amendment Act 2011

Public Act 2011 No 11  
Date of assent 18 April 2011  
Commencement see section 2

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### The Parliament of New Zealand enacts as follows:

#### 1 Title

This Act is the Copyright (Infringing File Sharing) Amendment Act 2011.

#### 2 Commencement

This Act comes into force on 1 September 2011.

#### 3 Principal Act amended

This Act amends the Copyright Act 1994.

## Part 1

### Infringing file sharing

#### 4 Section 92A repealed

Section 92A (as inserted by the Copyright (New Technologies) Amendment Act 2008, but not in force) is repealed.

#### 5 Internet service provider liability if user infringes copyright

Section 92B is amended by inserting the following subsection after subsection (2):

“(2A) An Internet service provider does not infringe the copyright in the work, or authorise A’s infringement of the copyright in the work, merely because the Internet service provider knows of the infringement from information received as a result of anything done under sections 122A to 122U, provided that, in relation to the alleged infringement, the Internet service provider complies with all its obligations under those sections and under any regulations made under section 234(eb) to (eh).”

#### 6 New heading and sections 122A to 122U inserted

The following heading and sections are inserted after section 122:

#### *“Infringing file sharing*

#### “122A Interpretation for sections 122B to 122U

“(1) In this section and sections 122B to 122U, unless the context otherwise requires,—

“**account holder**, in relation to an IPAP, means a person who has an account with the IPAP

“**detection notice** means a detection notice issued by an IPAP to an account holder in respect of an alleged infringement against a rights owner (*see* section 122D)

“**enforcement notice** means an enforcement notice issued by an IPAP to an account holder in respect of at least 3 alleged infringements against a rights owner (*see* section 122F)

“**file sharing** is where—

“(a) material is uploaded via, or downloaded from, the Internet using an application or network that enables the sim-

ultaneous sharing of material between multiple users;  
and

“(b) uploading and downloading may, but need not, occur at the same time

“**infringement** means an incidence of file sharing that involves the infringement of copyright in a work by a user

“**infringement notice** means a detection notice, a warning notice, or an enforcement notice that—

“(a) is issued to an account holder by an IPAP; and

“(b) identifies a particular infringement that triggers the notice; and

“(c) in the case of a warning notice or an enforcement notice, identifies any other infringements that have occurred since the date of the detection notice

“**IP address** means an Internet protocol address

“**IPAP, or Internet protocol address provider**, means a person that operates a business that, other than as an incidental feature of its main business activities,—

“(a) offers the transmission, routing, and providing of connections for digital online communications, between or among points specified by a user, of material of the user’s choosing; and

“(b) allocates IP addresses to its account holders; and

“(c) charges its account holders for its services; and

“(d) is not primarily operated to cater for transient users

“**on-notice period** means the period of 28 days beginning on the date of a detection notice or a warning notice

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**Example**

- (1) A detection notice is issued on Monday, 1 March. The on-notice period ends with the close of Sunday, 28 March.
- (2) A warning notice is issued on Friday, 16 April. The on-notice period ends with the close of Thursday, 6 May.

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“**quarantine period** means a period of 35 days beginning on the date of an enforcement notice

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**Example**

- (1) An enforcement notice is issued on Monday, 1 March. The quarantine period ends with the close of Sunday, 4 April.

**Example**—*continued*

- (2) An enforcement notice is issued on Saturday, 18 December. The quarantine period ends with the close of Friday, 21 January.
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“**rights owner** means—

“(a) a copyright owner; or

“(b) a person acting as agent for 1 or more copyright owners

“**warning notice** means a warning notice issued by an IPAP to an account holder in respect of at least 2 alleged infringements against a rights owner (*see* section 122E).

- “(2) If a rights owner acts as agent for 1 or more copyright owners,—

“(a) a reference to the copyright of a rights owner is to be taken as a reference to the copyright of any of the copyright owners for whom the rights owner acts as agent; and

“(b) a reference to infringement against a rights owner is to be taken as a reference to infringement against the copyright of any of the copyright owners for whom the rights owner acts as agent.

- “(3) In this section and sections 122B to 122U, a reference to the date of an infringement, an infringement notice, a challenge, or a response to a challenge is a reference to,—

“(a) in the case of an infringement, the date on which it is recorded by a rights owner as having occurred:

“(b) in the case of an infringement notice, the date on which it is issued by the IPAP:

“(c) in the case of a challenge made under section 122G, the date on which it is received from an account holder by an IPAP:

“(d) in the case of a response to a challenge, the date on which the IPAP receives the response from the rights owner.

- “(4) Despite section 35(6) of the Interpretation Act 1999, for the purposes of this section and sections 122B to 122U, periods of time end on the day calculated, whether or not that day is a working day.

“(5) Examples used in this section and sections 122B to 122U are illustrative only. If an example is inconsistent with any provision, the provision prevails.

**“122B Overview of infringing file sharing regime**

“(1) Sections 122A to 122U provide rights owners with a special regime for taking enforcement action against people who infringe copyright through file sharing.

“(2) The regime provides that, at the instigation of rights owners, IPAPs must issue infringement notices to alleged infringers.

“(3) The 3 kinds of infringement notices, in the order in which they are given, are a detection notice, a warning notice, and an enforcement notice.

“(4) After an enforcement notice is issued to an alleged infringer, the rights owner may take enforcement action by seeking the following orders against the alleged infringer:

“(a) an order from the Tribunal for a sum of up to \$15,000:

“(b) an order from a District Court requiring the IPAP to suspend the account holder’s Internet account for up to 6 months.

“(5) Time limits apply to all stages of the regime.

“(6) This section is by way of explanation only. If any provision is inconsistent with it, the other provision prevails.

**“122C IPAPs to send infringement notices**

“(1) If a rights owner provides an IPAP with information that identifies an IP address at which an infringement of its copyright is alleged to have occurred as a result of file sharing, the IPAP must—

“(a) match the IP address with the account holder to whom it related at the time of the infringement; and

“(b) issue the appropriate infringement notice to the account holder no later than 7 days after receiving the information.

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**Example**

An IPAP receives infringement information on Monday, 1 March. The IPAP must issue the infringement notice before the close of Monday, 8 March.

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- “(2) If information from a rights owner indicates that more than 1 infringement against the rights owner has occurred, any infringement notice sent to the account holder must identify the infringement that triggers that infringement notice, which must be the earliest recorded infringement for which the infringement notice could be issued.
- “(3) An IPAP need not comply with the obligation in subsection (1)(a) to match IP addresses if—
- “(a) the alleged infringement occurred more than 21 days before the IPAP received the relevant information from the rights owner; or
  - “(b) the alleged infringement occurred after an infringement that triggered a detection notice but before the date of that detection notice; or
  - “(c) the alleged infringement occurred during a quarantine period applying to the account holder with respect to the rights owner; or
  - “(d) the rights owner has not complied with regulations made under section 234 that impose requirements on the information, or form of information, to be provided for the purposes of subsection (1); or
  - “(e) the rights owner has not paid, or has not agreed to pay, a fee required by the IPAP, as permitted by section 122U.
- “(4) An IPAP need not comply with the obligation in subsection (1)(b) to issue notices if—
- “(a) any of subsection (3)(a) to (e) applies; or
  - “(b) the alleged infringement occurred within an on-notice period applying to the account holder with respect to the rights owner; or
  - “(c) the rights owner agrees, or asks, that a notice not be issued.
- “(5) Notices issued to account holders must be sent by whatever method the IPAP uses to communicate with the account holder for billing purposes, unless the account holder and IPAP agree in writing to use a different method.

“**122D Detection notices**

- “(1) An IPAP must issue a detection notice in relation to a rights owner to an account holder—

- “(a) the first time the IPAP matches the account holder with an IP address at which an infringement is alleged by the rights owner to have occurred; and
  - “(b) the first time, following the end of a quarantine period, the IPAP matches the account holder with an IP address at which an infringement is alleged by the rights owner to have occurred.
- “(2) A detection notice must be in the prescribed form (if a form is prescribed) and must—
- “(a) identify the rights owner; and
  - “(b) identify the alleged infringement that has triggered the issue of the notice; and
  - “(c) identify the date of that alleged infringement; and
  - “(d) state the date of the detection notice; and
  - “(e) explain the consequences to the account holder if further infringing occurs; and
  - “(f) explain how the account holder may challenge the notice; and
  - “(g) comply with any other requirements that may be prescribed in regulations.
- “(3) A detection notice expires 9 months after the date of the detection notice, unless the notice expires earlier under section 122F(4).

**“122E Warning notices**

- “(1) An IPAP must issue a warning notice in relation to a rights owner to an account holder if—
- “(a) the IPAP matches the account holder with an IP address at which an infringement is alleged by the rights owner to have occurred; and
  - “(b) the infringement occurred at least 28 days after the date of a detection notice issued to the account holder in relation to the same rights owner, but before that detection notice expires.

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**Example**

A detection notice is issued on Monday, 1 March. It will expire with the close of Wednesday, 1 December. A warning notice can



**Example**—*continued*

be issued on Monday, 29 March, and at any time up to and including Wednesday, 1 December.

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- “(2) A warning notice must be in the prescribed form (if a form is prescribed) and must—
- “(a) identify the rights owner; and
  - “(b) identify the infringement that has triggered the issue of the warning notice; and
  - “(c) identify the date of that alleged infringement; and
  - “(d) identify the most recent detection notice issued to the account holder in relation to the rights owner (the **preceding detection notice**); and
  - “(e) identify any other alleged infringements by the account holder against that rights owner that have occurred since the date of the preceding detection notice; and
  - “(f) state the date of the warning notice; and
  - “(g) explain the consequences to the account holder if further infringing occurs; and
  - “(h) explain how the account holder may challenge the notice; and
  - “(i) comply with any other requirements that may be prescribed in regulations.
- “(3) A warning notice expires 9 months after the date of the preceding detection notice, unless the notice expires earlier under section 122F(4).

**“122F Enforcement notices**

- “(1) An IPAP must issue an enforcement notice in relation to a rights owner to an account holder if—
- “(a) the IPAP matches the account holder with an IP address at which an infringement is alleged by the rights owner to have occurred; and
  - “(b) the infringement occurred at least 28 days after the date of a warning notice issued to the account holder in relation to the same rights owner, but before that warning notice expires.

- “(2) An enforcement notice must be in the prescribed form (if a form is prescribed) and must—
- “(a) identify the rights owner; and
  - “(b) identify the infringement that has triggered the issue of the enforcement notice; and
  - “(c) identify the date of that alleged infringement; and
  - “(d) identify the most recent warning notice issued to the account holder in relation to the rights owner, and the preceding detection notice; and
  - “(e) identify any other alleged infringements against the rights owner that have occurred since the date of the preceding detection notice; and
  - “(f) state the date of the enforcement notice; and
  - “(g) explain that enforcement action may now be taken against the account holder; and
  - “(h) explain that, unless the enforcement notice is cancelled, no further infringement notices may be issued in respect of infringements against the rights owner until the end of the quarantine period; and
  - “(i) explain how the account holder may challenge the notice; and
  - “(j) comply with any other requirements that may be prescribed in regulations.
- “(3) An enforcement notice expires at the end of a period of 35 days beginning on the date of the enforcement notice.
- “(4) On the date that an enforcement notice expires under subsection (3), the preceding detection notice and warning notice also expire.
- “(5) On issuing an enforcement notice to an account holder, the IPAP must send a copy of the notice to the relevant rights owner, but must omit any information that discloses the name or contact details of the account holder.

**“122G Challenging infringement notices**

- “(1) An account holder may challenge an infringement notice by sending a challenge, in the prescribed form, to the IPAP that issued the infringement notice.
- “(2) A challenge is not valid if it is received more than 14 days after the date of the infringement notice to which it relates.

- “(3) An IPAP that receives a valid challenge to an infringement notice must immediately forward it to the relevant rights owner.

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**Example**

A warning notice is issued on Monday, 1 March. A challenge sent before the close of Monday, 15 March is valid and must be forwarded to the rights owner. A challenge received on or after Tuesday, 16 March is not valid.

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- “(4) If the rights owner rejects the challenge,—
- “(a) it must send to the IPAP a response setting out the rejection and the reasons for it; and
  - “(b) the IPAP must immediately forward the response to the account holder.
- “(5) If a challenge is rejected, it may be raised again by the account holder in any enforcement proceedings.

**“122H Effect of challenge to, and cancellation of, infringement notice**

- “(1) A challenge is deemed to be accepted if it has not been rejected by the relevant rights owner before the close of the 28th day after the date of the infringement notice to which it relates.

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**Example**

A detection notice is issued on Monday, 1 March. A challenge is received by the IPAP on Monday, 15 March. If the challenge is not rejected before the close of Monday, 29 March, it is deemed to be accepted.

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- “(2) If a challenge to a detection notice is accepted or deemed to be accepted,—
- “(a) the detection notice is cancelled and treated as if it had not been issued; and
  - “(b) no infringements against that rights owner that occurred between the date of the infringement, that triggered the detection notice, and the date on which the detection notice is cancelled may be included in an infringement notice relating to that rights owner.
- “(3) If a challenge to a warning notice or an enforcement notice is accepted or deemed to be accepted,—

- “(a) the notice is cancelled and treated as if it had not been issued; but
- “(b) if the challenge related only to an infringement that was not an infringement that triggered a notice, the notice is not cancelled but the infringement is treated as if it were not included in the notice.

**“122I Enforcement action after issue of enforcement notice**

- “(1) A rights owner may take enforcement action against an account holder who has been issued with an enforcement notice in respect of infringements against the rights owner by doing either or both of the following:
  - “(a) applying to the Tribunal for an order under section 122O against the account holder;
  - “(b) applying to a District Court for an order under section 122P against the account holder.
- “(2) Nothing in sections 122A to 122U affects the rights and remedies of rights owners under any other provision of this Part in relation to any infringement of copyright, whether or not the infringement has been included in an infringement notice.

**“122J Application to Tribunal**

- “(1) After an enforcement notice is issued, any application to the Tribunal for an order under section 122O must be made—
  - “(a) before the end of the quarantine period for the enforcement notice; but
  - “(b) after either—
    - “(i) the last day on which a valid challenge to the enforcement notice could be made; or
    - “(ii) if a valid challenge has been made to the enforcement notice, the last day on which the challenge could be rejected.

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**Example**

An enforcement notice is issued on Monday, 1 March, and—

- (1) by the close of Monday, 15 March, no challenges have been received. The rights owner can apply to the Tribunal at any time after that, up until the close of Sunday, 4 April (end of quarantine period); or

**Example**—*continued*

- (2) on Monday, 15 March, a valid challenge is received. Whether or not the challenge is rejected, the rights owner cannot apply to the Tribunal until after Monday, 29 March (last day on which challenge could be rejected) and must do so before the close of Sunday, 4 April (end of quarantine period).
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- “(2) The application must be in the prescribed form and include or be accompanied by—
- “(a) a copy of the enforcement notice as forwarded to the rights owner; and
  - “(b) evidence that the rights owner is the owner, or acts as agent for the owner, of the material in which copyright is alleged to be infringed; and
  - “(c) a statement of which of the alleged infringements identified in the enforcement notice the rights owner is seeking to enforce; and
  - “(d) a copy of any challenges received by the rights owner in respect of any of those alleged infringements, along with any responses to those challenges; and
  - “(e) a statement of the amount that the rights owner is seeking from the account holder; and
  - “(f) the prescribed fee for the application.
- “(3) If the Tribunal is satisfied that an enforcement notice has been sent to the account holder in accordance with this Act, the Tribunal must order the relevant IPAP to produce to the Tribunal—
- “(a) the name and contact details of the account holder; and
  - “(b) copies of the detection and warning notices sent to the account holder.
- “(4) The IPAP must provide those contact details and notices to the Tribunal as soon as practicable.
- “(5) If an infringement notice expires, and the notice relates to an application made in accordance with subsection (1), the expiry does not affect the continuation and completion of any proceedings.

**“122K Notice of proceedings**

- “(1) The Tribunal must give notice of the proceedings, in the prescribed form, to the account holder and any parties that the Tribunal directs to be joined.
- “(2) The notice of proceedings must—
  - “(a) identify all the infringements in relation to which the rights owner seeks an order; and
  - “(b) specify the amount sought; and
  - “(c) set out the account holder’s right to make submissions and request a hearing.
- “(3) The parties to proceedings before the Tribunal for an order under section 122O are—
  - “(a) the applicant rights owner; and
  - “(b) the account holder identified in the enforcement notice; and
  - “(c) any other party that the Tribunal directs be added as a party in accordance with section 212(2).

**“122L Decisions generally made on papers and without hearing**

- “(1) Proceedings before the Tribunal for an order under section 122O must be determined on the papers unless—
  - “(a) any party to the proceedings requests a hearing; or
  - “(b) the Tribunal considers that a hearing should be held.
- “(2) The papers on which the proceedings are determined are—
  - “(a) the rights owner’s application to the Tribunal; and
  - “(b) copies of the infringement notices sent to the account holder; and
  - “(c) copies of challenges to any infringement notice, and any responses to those challenges; and
  - “(d) any additional information provided by the rights owner; and
  - “(e) any submissions by the account holder made within the time specified by the Tribunal.
- “(3) The Tribunal may determine its own procedure for determining an application that is dealt with on the papers, subject to any regulations.
- “(4) The Tribunal must make all reasonable efforts to ensure that, unless it orders otherwise or an order is made against the ac-

count holder, the identity and contact details of the account holder are not disclosed to the rights owner.

**“122M If hearing is held**

- “(1) If a hearing is held, sections 211 to 224 apply, other than sections 213(2) and 214(1).
- “(2) Every party to the proceedings may appear personally and be heard.
- “(3) A party may not be represented at a hearing by a representative, except as follows:
- “(a) a corporation or unincorporated body of persons may be represented by an officer, employee, or member of the corporation or body, or a person who holds a majority interest in it:
  - “(b) a person jointly liable or entitled with another or others may be represented by 1 of the persons jointly liable or entitled:
  - “(c) a partnership may be represented by an employee of a partnership:
  - “(d) a minor, or a person under a disability, may be represented by another person:
  - “(e) if the Tribunal is satisfied that, for sufficient cause, a party is unable to appear in person or is unable to present his or her case adequately, the party may be represented by a representative approved by the Tribunal:
  - “(f) if it appears to the Tribunal to be proper in all the circumstances to allow the party to be represented, the party may be represented by a representative approved by the Tribunal.
- “(4) A representative may not be a lawyer, unless the Tribunal gives leave.
- “Compare: 1988 No 110 s 38

**“122N Infringement notice as evidence of copyright infringement**

- “(1) In proceedings before the Tribunal, in relation to an infringement notice, it is presumed—

- “(a) that each incidence of file sharing identified in the notice constituted an infringement of the rights owner’s copyright in the work identified; and
  - “(b) that the information recorded in the infringement notice is correct; and
  - “(c) that the infringement notice was issued in accordance with this Act.
- “(2) An account holder may submit evidence that, or give reasons why, any 1 or more of the presumptions in subsection (1) do not apply with respect to any particular infringement identified in an infringement notice.
- “(3) If an account holder submits evidence or gives reasons as referred to in subsection (2), the rights owner must satisfy the Tribunal that, in relation to the relevant infringement or notice, the particular presumption or presumptions are correct.

**“122O Tribunal order requiring payment to rights owner**

- “(1) The Tribunal must order an account holder to pay a rights owner a sum if the Tribunal is satisfied that—
- “(a) each of the 3 alleged infringements that triggered the infringement notices issued to the account holder—
    - “(i) was an infringement of the rights owner’s copyright; and
    - “(ii) occurred at an IP address of the account holder; and
  - “(b) the 3 notices were issued in accordance with this Act.
- “(2) The sum specified in the Tribunal order must be determined in accordance with regulations made under this Act and must include a sum in relation to every infringement identified in the enforcement notice that the Tribunal is satisfied was committed against the rights owner at an IP address of the account holder.
- “(3) If the Tribunal makes an order under subsection (1), it may also make an order requiring the account holder to pay to the rights owner either or both of the following:
- “(a) a sum representing a contribution towards the fee or fees paid by the rights owner to the IPAP under section 122U:



- “(b) reimbursement of the application fee paid by the rights owner to the Tribunal.
- “(4) The total amount ordered by the Tribunal to be paid by the account holder must not exceed \$15,000.
- “(5) Despite subsection (1), the Tribunal may decline to make the order required by that subsection if, in the circumstances of the case, the Tribunal is satisfied that making the order would be manifestly unjust to the account holder.
- “(6) An order made under this section may be enforced as if it were a judgment for a sum of money made by a District Court.
- “(7) The Tribunal may award costs against a party to the proceedings only if the Tribunal is satisfied that the party has engaged in conduct intended to impede the prompt determination of the proceedings.

**“122P Court order suspending account holder’s account**

- “(1) A District Court may make a suspension order requiring an IPAP to suspend the Internet account of an account holder.
- “(2) A suspension order may be for any period up to 6 months.
- “(3) The court may make an order under this section only if it is satisfied that—
  - “(a) at least 1 enforcement notice has been issued to the account holder in accordance with this Act; and
  - “(b) the account holder has, by way of file sharing (whether as recorded in that enforcement notice or otherwise), infringed the copyright of the rights owner; and
  - “(c) suspension of the account holder’s account is justified and appropriate in the circumstances, given the seriousness of the infringing.
- “(4) When considering the circumstances, and in determining the duration of a proposed suspension, the matters that the court may consider include, but are not limited to,—
  - “(a) the degree of the account holder’s reliance on access to the Internet; and
  - “(b) the identity (if known) of the user who engaged in the infringements identified in the notices; and
  - “(c) any other matter that may be specified in regulations; and

- “(d) whether it would be manifestly unjust to suspend the account holder’s account.
- “(5) An application to a District Court for an order under this section must be made—
  - “(a) by the rights owner whose copyright is alleged to have been infringed; and
  - “(b) no later than 1 month after the rights owner receives the contact details of an account holder from an IPAP following an order made under section 122Q(2).

**“122Q Order requiring IPAP to disclose account holder details**

- “(1) This section applies if a rights owner wishes to apply for an order under section 122P against an account holder, but does not know the identity of the account holder.
- “(2) A District Court may make an order requiring an IPAP to disclose to a rights owner, as soon as practicable, the name and contact details of an account holder if—
  - “(a) the rights owner applies to the District Court for an order under this section; and
  - “(b) the District Court is satisfied, on the basis of information included in the application, that an enforcement notice has been sent to the account holder in accordance with this Act in relation to infringements against the rights owner; and
  - “(c) the rights owner has given an undertaking to the court that, if the account holder’s details are released to it, it will use that information only for the purpose of seeking and enforcing an order made under section 122P.

**“122R Suspension orders and orders under section 122Q not available until date set by Order in Council**

- “(1) No person may apply to a District Court for a suspension order under section 122P, or for an order under section 122Q, until after the date set by Order in Council under this section.
- “(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, set a date after which applications for orders under sections 122P and 122Q may be made.

**“122S Application of section 122C to cellular mobile networks**

- “(1) An IPAP need not comply with either of the obligations in section 122C(1) in respect of the services it provides by way of a cellular mobile network.
- “(2) Subsection (1) is repealed with the close of 30 September 2013 (but *see* subsection (3)(c)).
- “(3) The Governor-General may, by Order in Council made on the recommendation of the Minister, do all or any of the following:
- “(a) repeal this section:
  - “(b) repeal subsection (2):
  - “(c) amend subsection (2) by replacing the date specified in that subsection with any other date, whether that date is earlier or later than the one it replaces:
  - “(d) revoke or amend any Order in Council made under this section (the **principal order**), but only if the repeal, amendment, or revocation effected by the principal order has not taken effect.
- “(4) The powers in subsection (3) may be exercised more than once.

**“122T Obligations of IPAPs**

- “(1) Every IPAP must retain, for a minimum of 40 days, information on the allocation of IP addresses to each account holder.
- “(2) Every IPAP must retain, for a minimum of 12 months, the following information:
- “(a) any information about infringements that is sent by rights owners to the IPAP for the purpose of matching infringements to account holders:
  - “(b) in relation to each of the IPAP’s account holders,—
    - “(i) any infringement notices issued to the account holder; and
    - “(ii) any challenges to infringement notices and any responses to them; and
    - “(iii) which infringement notices (if any) have been cancelled or have expired; and
    - “(iv) any orders made under section 122P suspending an account holder’s account.

- “(3) No IPAP may release the name or contact details of an account holder to a rights owner unless—
- “(a) authorised to do so by the account holder; or
  - “(b) required to do so by the Tribunal or a court.
- “(4) On or before 31 December 2012, and annually thereafter, every IPAP must publish on its Internet site a report on its compliance with this section during the period starting on 1 October in the previous year and ending on 30 September in the year of the report.

**“122U Fees payable by rights owners to IPAPs**

- “(1) An IPAP may charge a rights owner for performing the functions required of IPAP under sections 122A to 122T.
- “(2) If regulations are made that prescribe a rate or rates, or a method or methods for calculating the rate or rates, that may be charged by an IPAP, an IPAP must not charge more than the rate or rates prescribed by, or calculated in accordance with, the regulations.”

**7 Rights and remedies of exclusive licensee**

- (1) Section 123(1) is amended by omitting “sections 120, 121, and 122 of this Act” and substituting “any of sections 120 to 122P”.
- (2) Section 123(2) is amended by omitting “sections 120, 121, and 122 of this Act” and substituting “any of sections 120 to 122P”.

**Part 2**

**Related amendments to Parts 10 and 11**

*Copyright Tribunal*

**8 Membership of Tribunal**

- (1) Section 206(1) is amended by omitting “2” and substituting “5”.
- (2) Section 206(3) is amended by omitting “2” and substituting “5”.

**9 Sittings of Tribunal**

Section 213(2) is amended by omitting “all” and substituting “at least 3”.

*Regulations***10 Regulations**

Section 234 is amended by inserting the following paragraphs after paragraph (ea):

- “(eb) prescribing the form, content, procedures, requirements, and any other matters relating to infringement notices:
  - “(ec) prescribing the form of notice for challenging an infringement notice:
  - “(ed) prescribing the fee payable by rights owners for applications to the Tribunal under section 122J:
  - “(ee) prescribing the practices and procedures of the Tribunal in relation to determining applications under section 122J:
  - “(ef) prescribing the sum, or a method or methods of calculating the sum, that the Tribunal may order an account holder to pay under section 122O:
  - “(eg) prescribing any matters necessary or desirable in relation to an order, or an application for an order, under section 122P:
  - “(eh) prescribing the rate or rates, or a method or methods for calculating the rate or rates, for the fees that may be charged by IPAPs to rights owners under section 122U.”.
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**Legislative history**

23 February 2010	Introduction (Bill 119–1)
22 April 2010	First reading and referral to Commerce Committee
3 November 2010	Reported from Commerce Committee (Bill 119–2)
12 April 2011	Second reading, committee of the whole House, third reading
18 April 2011	Royal assent

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This Act is administered by the Ministry of Economic Development.

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