

# Copyright (Amendment) Bill 2014

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**Bill No. /2014**

*Read the first time on .*

A BILL

*i n t i t u l e d*

An Act to amend the Copyright Act (Chapter 63 of the 2006 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

### Short title and commencement

1. This Act may be cited as the **Copyright (Amendment) Act 2014** and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### 5 Amendment of **section 193A**

2. **Section 193A(1) of the Copyright Act** is amended by inserting, immediately after the definition of “**electronic copy**”, the following definition:

10 “**“flagrantly infringing online location”**, in relation to any material, means an online location which is determined by the court under section 193DDA(3) as having been or being used to flagrantly infringe the copyright in the material or other material;”.

### New **sections 193DDA, 193DDB and 193DDC**

15 3. The **Copyright Act** is amended by inserting, immediately after **section 193DD**, the following sections:

#### **“Order to disable access to flagrantly infringing online location**

20 **193DDA.**—(1) Where the High Court is satisfied, on an application made under this section by an owner of copyright in any material, that —

- 25 (a) the services of a network service provider have been or are being used to access a flagrantly infringing online location to infringe the copyright in the material or other material; and
- (b) the network service provider has knowledge that the services of the network service provider have been used or are being used to access the flagrantly infringing online location to infringe the copyright in the material or other material,
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the High Court may, after having regard to the factors referred to in section 193DB(3), make an order requiring the network service provider to take reasonable steps to disable access to the flagrantly infringing online location.

5 (2) For the purpose of determining whether an online location has been or is being used to flagrantly infringe the copyright in any material, the High Court shall have regard to, and give such weight as the High Court considers appropriate to, all of the following matters:

10 (a) whether the primary purpose of the online location is to commit or facilitate infringement of the copyright in the material or other material;

15 (b) whether the online location makes available or contains directories, indexes or categories of the means to infringe the copyright in the material or other material;

(c) whether the owner or operator of the online location demonstrates a disregard for copyright generally;

20 (d) whether access to the online location has been disabled by orders from any court of another country or territory on the ground of or related to copyright infringement;

25 (e) whether the online location contains guides or instructions to circumvent measures, or any order of any court, that disables access to the online location;

(f) the number of visitors to the online location.

30 (3) For the avoidance of doubt, the High Court shall not be confined to consideration of matters specified in subsection (2) and may take into account such other matters and evidence as may be relevant.

**Application for order under section 193DDA**

**193DDB.**—(1) Unless otherwise dispensed with under subsection (2), an owner of copyright in any material must, before applying for an order under section 193DDA(1) —

5           (a) serve a written notice in the prescribed form on the network service provider that is to be the defendant in an action under that section; and

10           (b) serve a written notice on the owner of the online location that is intended to be the subject of the order (referred to in this section as the relevant online location owner) that the online location has been or is being used to infringe the copyright in the material or other material and of the copyright owner's intention to apply for an order under section 193DDA(1) if the relevant online location owner does not cease the use of the online location to infringe the copyright in the material or other material within a prescribed time period.

20           (2) The High Court may dispense with service of the written notice under subsection (1)(b) if the High Court is satisfied that an owner of copyright in any material in an action under section 193DDA(1) is, despite reasonable efforts to do so, unable to determine the identity or address of the relevant online location owner or to serve the written notice under subsection (1)(b) on the relevant online location owner, as the case may be.

25           (3) For the purpose of section 193DDA(1)(b), a network service provider shall be deemed to have knowledge that the services of the network service provider have been used or are being used to access a flagrantly infringing online location to infringe copyright in any material, if the network service provider has received a written notice under section (1)(a) in relation to that material.

30           (4) Every application for an order under section 193DDA(1) shall be commenced by originating summons supported by an

affidavit and must be served on the network service provider who is the defendant in the action under that section.

**Variation or revocation of order**

5       **193DDC.**—(1) The High Court may, on the application of a party (defendant or plaintiff) to an order made under section 193DB or 193DDA, as the case may be, or the owner of the online location that is the subject of the order, vary the order as it thinks just if the High Court is satisfied that there has been a material change in the circumstances or that it is otherwise appropriate in the circumstances to do so.  
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(2) The High Court may, on the application of a party to an order made under section 193DDA or the owner of the online location that is the subject of the order, revoke the order if the High Court is satisfied —

- 15           (a) upon further evidence, that the order ought not have been made;
- (b) that the online location no longer flagrantly infringes copyright; or
- 20           (c) that it is otherwise appropriate in the circumstances to do so.”.

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**EXPLANATORY STATEMENT**

This Bill seeks to

**EXPENDITURE OF PUBLIC MONEY**

This Bill will not involve the Government in any extra financial expenditure.

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