

FINANCE AND AUDIT ACT  
(Cap. 54:01)

**COPYRIGHT AND NEIGHBOURING RIGHTS (LEVY ON TECHNICAL  
DEVICES) FUND ORDER, 2008**  
(Published on 14th November, 2008)

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IN EXERCISE of powers conferred on the Minister of Finance and Development Planning by section 25 of the Finance and Audit Act, the following Order is hereby made —

- Citation                   **1.** This Order may be cited as the Copyright and Neighbouring Rights (Levy on Technical Devices) Fund Order, 2008.
- Interpretation           **2.** In this Order, unless the context otherwise requires —  
“Accounting Officer” means the Permanent Secretary in the Ministry of Trade and Industry appointed as such under paragraph 5 (1);  
“Committee” means the committee established by the Accounting Officer under paragraph 5 (5);  
“Fund” means the Copyright and Neighbouring Rights (Levy on Technical Devices) Fund established under paragraph 3;
- Cap. 68:02               “Office” means the Copyright Office established by the Copyright and Neighbouring Rights Act;
- Establishment of Fund   **3.** There is hereby established a special fund to be known as the Copyright and Neighbouring Rights (Levy on Technical Devices) Fund.
- Purpose of Fund           **4.** (1) The purpose of the Fund is to deposit the levy charged on all imported and locally manufactured blank sound and audio visual carriers, compact discs and equipment capable of being used to copy protected materials.  
(2) The levy collected shall be used for the professional development of the authors and publishers of works.
- Administration of Fund   **5.** (1) The Permanent Secretary in the Ministry of Trade and Industry is hereby appointed the Accounting Officer and he or she shall be the public officer responsible for the administration of the Fund in accordance with the provisions of this Order and the terms of the Copyright and Neighbouring Rights Act .
- Cap. 68:02

(2) The Accounting Officer may exercise all such powers and perform all such duties as may be required to be exercised or performed for the proper discharge of his or her functions under this Order.

(3) The Accounting Officer may, in writing, authorise any other public officer to exercise or perform all or any of the powers or duties required of the Accounting Officer.

(4) Without derogating from the generality of the functions and powers of the Accounting Officer as provided in this paragraph, the Accounting Officer shall cause the Office to —

- (a) be responsible for the day to day administration and management of the Fund as provided for by section 22B (j) of the Copyright and Neighbouring Rights Act;
- (b) keep and maintain proper books of accounts and records of the Fund; and
- (c) maintain an account into which shall be recorded all receipts into the Fund, all disbursements from the Fund, and the reconciliation of the monthly accounts of the Fund.

(5) The Accounting Officer shall appoint a Committee to be chaired by the Copyright Administrator, who shall perform the functions set out in paragraph 9.

6. There shall be paid into the Fund monies being the levy charged on all imported and locally manufactured blank sound and audio visual carriers, compact discs and equipment capable of being used to copy protected materials.

7. The Accounting Officer shall cause to be paid out of the monies of the Fund administrative costs relating to the —

- (a) administrative management of the Committee;
- (b) financial auditing of the accounts of the Fund;
- (c) remuneration of Committee members representing Non-Governmental Organisations; and
- (d) other matters affecting the administration of the Fund as approved by the Committee.

8. (1) The Committee shall, with the approval of the Accounting Officer, develop guidelines it shall utilise to award grants from the Fund to finance approved projects for any activity intended to promote the development of authors and publishers of works.

(2) The Committee shall develop guidelines for the awarding of grants that shall provide, *inter alia*, for —

- (a) the criteria for evaluating and approving a project to receive an award of a grant from the Fund;
- (b) the passing of a resolution to award a grant to a project;
- (c) the public announcement of each grant awarded;
- (d) the development, after consultation with the Accounting Officer, of a Grant Agreement with respect to each grant recipient, which shall, *inter alia*, provide for —
  - (i) the receipt and use of the grant;
  - (ii) a schedule for grant process;
  - (iii) the auditing and reporting requirements for the grant and any project financed by the grant;
  - (iv) representations and warranties;
  - (v) the procedures to monitor performance for awarded grants; and
  - (vi) the procedure to be followed for the return of an unused grant or the recovery of a misused grant.

Payments into  
Fund

Disbursements  
from Fund

Grants  
awarded from  
Fund by  
Committee

(3) The Committee shall maintain and make available for public inspection a record of —

- (a) each resolution of the Committee to award a grant; and
- (b) the justification for the resolution to award the grant.

(4) The Committee shall set in place mechanisms for making readily available to the public information on —

- (a) the selection criteria for awarding grants, which selection criteria shall include —
  - (i) criteria for evaluating projects; and
  - (ii) requirements for the approval of a project;
- (b) the Committee's written policies;
- (c) the Committee's operating procedures; and
- (d) the summaries of the Committee's proceedings.

Accounts of  
Fund

**9.** (1) The Accounting Officer shall cause the Office to conduct an annual financial audit of the accounts of the Fund in accordance with generally accepted international accounting standards.

(2) No later than three months after the close of each financial year the Office shall cause accounts with respect to that year to be audited by an independent auditor appointed by the Auditor General.

(3) As soon as the accounts have been audited, and in any case not later than three months after the audit, the Office shall submit to the Accounting Officer a copy of each audited account together with the auditor's report.

(4) The Office shall, within three months after the end of the financial year, submit to the Accounting Officer a report on the conduct of the business of the Committee.

MADE on this 5th day of November, 2008.

B. GAOLATHE,  
*Minister for Finance and Development  
Planning.*