

## **Hong Kong's Amended Copyright Law: A Guide to Parallel Imports**

This leaflet highlights some of the changes to Hong Kong's copyright law relating to the importation and use of parallel imported copies of copyright works in business. The changes have come about as a result of the Copyright (Amendment) Ordinance 2007, which came into force on 6 July 2007.

### **What are parallel imports?**

Parallel imported copies of copyright works are genuine copies that are originally made and destined for a market outside Hong Kong, but are subsequently imported into Hong Kong without the consent of the copyright owner.

### **The law before 6 July 2007**

The following acts were prohibited under the previous version of our copyright law:

- importation of parallel imported copies for any business purpose;
- dealing in (i.e. selling, hiring or distributing for profit) parallel imported copies; and
- use or possession of parallel imported copies of movies, television dramas, musical sound recordings or musical visual recordings in business.

A person who did the above acts would commit a criminal offence if the copyright work had been first published anywhere in the world within 18 months. If the work has been published for more than 18 months, the person would still be subject to civil liability.

### **The law after 6 July 2007**

The amended Copyright Ordinance has relaxed some of the restrictions relating to parallel imports.

#### **(a) Liberalization for business end-users**

You may now import or possess parallel imported copies of copyright works for use in your business *as an end-user*. Civil and criminal sanctions for end-users have both been abolished. However, you are NOT allowed to import or use the parallel imported copies for the following purposes:

- dealing in (i.e. selling, hiring or distributing for profit) the copies; or
- playing or showing the works in public if the copies concerned are movies, television dramas, musical sound recordings or musical visual recordings.

If you import or use parallel imported copies of copyright works for the above prohibited purposes, you could be liable to civil or even criminal sanctions (see paragraph (c) below).

(b) Liberalization for educational establishments

If you are an educational establishment or a library within such establishment, you may now import or possess parallel imported copies of copyright works for educational purpose or for use of your library. Moreover, the playing or showing of parallel imported copies of movies, television dramas, musical sound recordings and musical visual recordings for educational or library use is also permitted. However, you are NOT allowed to deal in (i.e. sell, hire or distribute for profit) the copies.

(c) Shorter period for criminal sanction in relation to prohibited acts

Under the amended Copyright Ordinance, it is a criminal offence for you to

- deal in (i.e. sell, hire or distribute for profit) parallel imported copies of any copyright work (except computer software products);
- import parallel imported copies of any copyright work (except computer software products) for dealing in the copies; or
- import or possess parallel imported copies of movies, television dramas, musical sound recordings or musical visual recordings for playing or showing in public.

if the copyright work has been first published anywhere in the world within *15 months*. Where the work has been published for more than 15 months, you will still be subject to civil liability.

(d) As under the previous version of the Copyright Ordinance, you may do the following acts without restrictions under our copyright law:

- import or use parallel imported copies of computer software for business purposes (including dealing in such copies); and
- import or use parallel imported copies of any copyright work for your private and domestic use.

**Examples of acts that the law allows:**

- (a) You may buy genuine copies of any copyright works (e.g. books or musical CDs) overseas and bring them back to Hong Kong for your personal use.
- (b) You may buy parallel imported copies of any copyright work (e.g. books) directly from an overseas supplier and use them in your business as internal reference material for your staff.
- (c) You may source parallel imported computer software products directly from an overseas supplier for sale or internal use in your business.

**Examples of acts that the law does not allow:**

- (a) You must not import any parallel imported copies of copyright works (except computer software products) into Hong Kong for the purpose of sale, hire or distribution for profit.
- (b) You must not import or possess any parallel imported copies of movies, television dramas or musical recordings for playing or showing in your karaoke establishment, restaurant or shop.

If you do any of the above acts, you could be liable to civil or even criminal sanctions. (With regard to the above acts, certain defences are available.<sup>1</sup>)

For further details of the Copyright Ordinance, please refer to the website of the Intellectual Property Department at [www.ipd.gov.hk](http://www.ipd.gov.hk).

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<sup>1</sup> Our copyright law provides a defence to a person who does certain prohibited acts in relation to parallel imported copies of a copyright work where the work is not available in Hong Kong and the person has conducted the necessary investigations before doing the prohibited acts. Any person who intends to rely on the defence should consult their legal advisor in order to understand it fully.