

Copyright (Amendment) Bill 2022 gazetted

The intellectual property (IP) regime has all along been very important to Hong Kong as an international trade centre. Updating Hong Kong's copyright regime and strengthening copyright protection in the digital environment are important parts of the strategy to develop Hong Kong into a regional IP trading centre under the National 14th Five-Year Plan. Hong Kong's IP regime must keep abreast with the times and international norms, as well as meet its social and economic needs.

A spokesman for the Commerce and Economic Development Bureau said, "The Copyright (Amendment) Bill 2022 (the Bill) was gazetted today (May 27). The copyright system is an important part of the IP regime. On the one hand, it effectively protects private property rights arising from original works. On the other hand, it allows the public to make reasonable use of copyright works. This is crucial to encouraging creativity, technological development, as well as the dissemination and advancement of knowledge, underpinning the development of a knowledge-based economy.

"To strengthen copyright protection in the digital environment, the Government has introduced amendment bills twice, in 2011 and 2014 respectively, into the Legislative Council (LegCo). While the respective LegCo bills committees supported the passage of the amendment bills on both occasions, the corresponding legislative processes could not be completed before the expiry of the respective LegCo terms. After improving the electoral system, enabling the executive and the legislature to resume rational interaction, we consider that it is high time to revive the long overdue copyright legislative amendment exercise. We believe that LegCo will surely complete scrutinising the Bill in a serious, detailed and efficient manner for its early passage."

The key legislative proposals of the Bill, using the Copyright (Amendment) Bill 2014 as the basis, are the result of years of consultations and deliberations since 2006, representing the consensus and balance of interests of different stakeholders. The relevant legislative proposals cover the following five key areas:

1. To introduce an exclusive technology-neutral communication right for copyright owners in light of technological developments;
2. To introduce criminal sanctions against infringements relating to the new communication right;
3. To revise and expand the scope of copyright exceptions to allow use of copyright works in certain common Internet activities; facilitate online learning and operation of libraries, archives and museums; and allow media shifting of sound recordings, etc;

4. To introduce "safe harbour" provisions to provide incentives for online service providers to co-operate with copyright owners in combating online piracy and to provide reasonable protection for their acts; and

5. To introduce two additional statutory factors for the court to consider when assessing whether to award additional damages to copyright owners in civil cases involving copyright infringements.

The Government conducted a three-month public consultation on updating Hong Kong's copyright regime in November 2021. The majority of respondents agree that there is an imminent need for Hong Kong to update the copyright regime and generally support the Government's key legislative proposals. The LegCo Panel on Commerce and Industry also supports these proposals.

The spokesman said, "We will continue to engage stakeholders and solicit LegCo's support during the legislative amendment exercise to secure passage of the Bill as soon as possible. This will also demonstrate to society that after improving the electoral system, the executive and the legislature can effectively resolve issues which affect our long-term economic development, and work together to develop Hong Kong into a regional IP trading centre."

The Secretary for Commerce and Economic Development will introduce the Bill into LegCo for first and second readings on June 8.