

Copyright Ordinance (Cap. 528)
Use of exception under section 40B by a person with a print disability¹

This checklist is for general reference and self-assessment only and does not constitute legal advice. The Government of the Hong Kong Special Administrative Region does not accept any liability for any loss or damage caused to any person relying on information given or omitted in the checklist.

Title of copy of work ² (i.e. master copy) for making an accessible copy	
Copyright owner of the work	

1. Eligibility to use the exception under section 40B

To be eligible to use the exception, as the requestor of an accessible copy of the master copy, you must be a person with a print disability, i.e. you –

- are blind;
- are visually impaired to the extent that your visual function cannot be improved by the use of corrective lenses (such as glasses) to a level that would normally be acceptable for reading without a special level or kind of light;
- are unable, through physical disability, to hold or manipulate a book;
- are unable, through physical disability, to focus or move your eyes to the extent that would normally be acceptable for reading; or
- have a perceptual or reading disability (including dyslexia) which cannot be improved to give you visual function substantially equivalent to that of a person who has no such disability, such that you are unable to read to substantially the same degree as a person who has no such disability.

If none of the above conditions applies, ***you are prima facie NOT eligible to use the exception. Please seek independent legal advice on your eligibility.***

¹ The Copyright (Amendment) Ordinance 2020 (the Amendment Ordinance), which came into effect on 26 June 2020, has enhanced the copyright exceptions relating to persons with a print disability in the Copyright Ordinance (Cap. 528) to bring them into line with the standards under the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. For details on how the exceptions or permitted acts in the Copyright Ordinance allowing the production of specially adapted copies (accessible copies) for the personal use by persons with a print disability are enhanced, see the [Amendment Ordinance](#) and the [Copyright Ordinance \(Cap. 528\)](#).

² Section 40B of Cap. 528 covers the whole or part of a literary, dramatic, musical or artistic copyright work (or its audio form, e.g. an audiobook).

2. Status of the master copy

- You possess or have lawful access to the master copy;
- the master copy is a genuine copy;
- the master copy is not accessible to you because of your print disability;
- the master copy does *not* include a sound recording that comprises only of:
 - ◆ a performance of the whole or part of a musical work or a dramatic work, or
 - ◆ a performance of music in which words are spoken, or are sung, incidentally to or in association with the music (e.g. a CD of a singer singing pop songs); and
- if the master copy is the whole or part of a musical or dramatic work, the making of an accessible copy does *not* involve recording a performance of the work or part of the work.

3. Obligations on the maker of the accessible copy

- Before making an accessible copy from the master copy, you (or a third party acting on your behalf) have made reasonable enquiries and are satisfied that *no copy* of the work in a form that is accessible to you can be obtained at a reasonable commercial price; and
- if the third party who makes the accessible copy on your behalf charges for it, the sum charged does not exceed the cost incurred in making and supplying that copy to you.

**** WARNING ****

If an accessible copy of the work made in full compliance of all the conditions stated in section 40B of the Copyright Ordinance (Cap. 528) is subsequently dealt with (i.e. sold, let for hire, or offered or exposed for sale or hire), the accessible copy is to be treated as an infringing copy.