

COPYRIGHT ACT
Act 2 of 2014 – 31 July 2014

P 30/14 (cio 31/7/14)

Amended 26/15 (P 14/16 –cio 15/4/16); 13/17 (P/48/17 – cio 14/12/17 (ss. 2, 3, 4, 5, 6, 7, 21(a), 23, 25, 26, 27, 28 and 29)); 13/17 (P10/18 s 21(b) and (c), 22, 24, 28A and 30 cio 8/3/18; 5/22 – P 19/22 (cio 1/6/22);

ARRANGEMENT OF SECTIONS

Section

- | | |
|---|---|
| <p>PART I – PRELIMINARY</p> <ol style="list-style-type: none">1. Short title2. Interpretation <p>PART II – PROTECTION OF WORKS</p> <ol style="list-style-type: none">3. Protection of works4. Derivative works5. Subject matter not protected6. Economic rights7. Moral rights8. Alienation of works9. Original ownership of economic rights10. Presumptions regarding authorship, producer of audiovisual works and publisher11. Contracts for commissioned works <p>PART III – FEATURES OF ECONOMIC RIGHTS</p> <ol style="list-style-type: none">12. Assignment and licensing of rights of author13. Agreement regarding future works14. Non-use of economic rights15. Duration of copyright <p>PART IV – LIMITATIONS ON ECONOMIC RIGHTS</p> <ol style="list-style-type: none">16. Private reproduction for personal purposes17. Temporary reproduction18. Quotation19. Reproduction and other utilisation for teaching and scientific non-commercial purposes20. Reproduction by libraries and archives21. Reproduction, broadcasting and other communication to the public for informatory purposes22. Reproduction and adaptation of computer programmes23. Visually impaired person24. Ephemeral recordings25. Importation for personal purposes | <ol style="list-style-type: none">26. Distribution of copies of works27. Public lending28. Display of works28A. Conditions for use of copyright protected works <p>PART V – BROADCASTING ORGANISATIONS, PERFORMERS AND PRODUCERS</p> <ol style="list-style-type: none">29. Rights of broadcasting organisation30. Rights of performer31. Grant of authorisation by performer32. Rights of phonogram producer33. Obligations of producer34. Notice of protection of rights of producers35. Equitable remuneration for use of phonogram36. Limitation on protection <p>PART VI – ANTI-CIRCUMVENTION</p> <ol style="list-style-type: none">37. Technological protection measures38. Protection of rights management information39. Prohibited acts assimilated to infringement of rights <p>PART VII – APPLICATION OF ACT</p> <ol style="list-style-type: none">40. Scope of application of copyright41. Scope of application of related rights <p>PART VIII – THE SOCIETY</p> <ol style="list-style-type: none">42. Management of rights43. Establishment of Society44. Appointment of staff45. Functions of Society45A. Committees46. Membership of the Society47. General Fund48. Publication of accounts48A. Directions by Minister49. Execution of documents50. Exemptions51. Rules51A. Amendment of Schedule52. Protection from liability <p>PART IX – JUDICIAL PROCEEDINGS</p> |
|---|---|

- 53. Special remedies
- 54. Presumptions
- 55. Vain threats
- 56. Offences

- 57. Regulations
- 58. Transitional provisions
- 59. Repeal and savings
- 60. Commencement

PART X – MISCELLANEOUS

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Copyright Act 2014.

2. Interpretation

In this Act –

“acknowledgement”, in relation to a work, means the identification of the work –

- (a) by its title or other description; and
- (b) unless the work is anonymous or the author of the work has agreed not to be identified, by its author;

“artistic, literary or scientific work” –

- (a) means a production in the artistic, literary or scientific domain;
- (b) includes –
 - (i) a book, pamphlet or other writing;
 - (ii) an illustration, a map, plan or sketch;
 - (iii) a lecture, a sermon or any other address of a similar nature;
 - (iv) a dramatic or dramatico-musical work;
 - (v) a musical work;
 - (vi) a choreographic work or pantomime;
 - (vii) an audiovisual work;
 - (viii) a sound recording;
 - (ix) a work of –
 - (A) fine art, such as a drawing or painting; or

- (B) architecture or sculpture, an engraving or lithography or applied art;
- (x) a photographic work;
- (xi) a computer programme;
- (xii) a national symbol under the National Flag, Arms of Mauritius, National Anthem and Other National Symbols of Mauritius Act 2022; but
[Inserted 26/15 (cio 15/4/16); RR 5/22 (cio 1/6/22).]
- (c) does not include items specified to in section 5;

“audiovisual work” –

- (a) means a work consisting of a series of related images and accompanying sounds which are intended to be shown by any appropriate device; and
- (b) includes a cinematograph or other film, and cinematographic elements of computer games;

“author” means the natural person who has created the work;

“Berne Convention” means the Convention for the Protection of Literary and Artistic Works signed in Berne;

“Board” means the Board referred to in section 43;

“broadcasting” means the communication of a work, a performance or a phonogram to the public by wired or wireless transmission, including transmission by satellite;

“broadcasting organisation” means a legal entity which takes –

- (a) the initiative of packaging, assembling and scheduling programme content for which it has, where necessary, been authorised by right holders; and
- (b) the legal and editorial responsibility for the communication to the public of everything which is included in its broadcast signal;
[RR 13/17 (cio 14/12/17).]

“Chairperson” means the Chairperson of the Board appointed under section 43(4);

“circumvent”, in relation to technological protection measures, means to avoid, bypass, remove, deactivate, or impair these measures, including descrambling a scrambled work or object of related right or decrypting an encrypted work or object of related right;

“communication to the public” –

- (a) in relation to a work, performance, phonogram or broadcast, means its transmission by wire or wireless means in such a way that it may be perceived by persons outside the normal circle of a family and its closest social acquaintances at a place or places so distant from the place where the transmission originates that, without the transmission, the work, performance, phonogram or broadcast would not be perceivable;
- (b) in relation to a work or other protected subject matter, includes making it available in such a way that members of the public may access it from a place and at a time individually chosen by them;

“computer” means an electronic or similar device having information processing capabilities;

“computer programme” means a set of instructions, expressed in words, codes, schemes or in any other form, which is capable, when incorporated in a machine-readable medium, of causing a computer to perform or achieve a particular task or result;

“copy” includes a reproduction of a work in –

- (a) a written form;
- (b) the form of a recording or;
- (c) any other form;

“copyright” means the economic and moral rights subsisting in a work;

“copyright owner” means where –

- (a) an author who is vested with the economic rights;
- (b) a natural person, other than an author, or legal entity who is originally vested with the economic rights;
- (c) a natural person or legal entity, to whom the ownership of the economic rights has been transferred;

“derivative work” means a translation, adaptation, arrangement or other alteration of pre-existing artistic, literary or scientific work and which work includes –

- (a) a collection, a compilation or an arrangement or other transformation of pre-existing works, expressions of folklore or traditional cultural expression of mere facts or data, whether in machine readable or other form;
- (b) an anthology, an encyclopedia or a data base; or
- (c) any other work, which, by reason of selection and arrangement of its contents, is original;

“display” means –

- (a) to show a copy of a work directly, or by means of a film, slide, television image or otherwise on screen, or by means of any other device or process;
- (b) in the case of audiovisual work, to show individual images non-sequentially;

“distribution to the public” in relation to a work, fixation of a performance or phonogram –

- (a) means putting into public circulation the original or a copy in tangible form, through sale or other transfer of ownership;
- (b) including importing for the purpose of such putting into circulation and public offering for sale and other transfer of ownership;

“economic right” means a right specified in section 6;

“equipment” means any recording or transmission equipment;
[Insterted 13/17 (cio 14/12/17).]

“equitable remuneration” means –

- (a) such remuneration as may be prescribed; or
- (b) where no such remuneration is prescribed, such remuneration as may, in default of agreement between the relevant parties, be determined by a recognised dispute settlement mechanism or court of law;

“exclusive licence” means a licence to the exclusion of all other persons;

“expressions of folklore” –

- (a) means production of characteristic elements of the traditional artistic heritage developed and maintained by a community or individuals reflecting the traditional artistic expectations of a community;
- (b) includes folk tales, folk poetry, folk songs, instrumental folk music, folk dances and plays, artistic forms or rituals and production of folk art;

“first published” means –

- (a) first published in Mauritius; or
- (b) first published outside Mauritius and published in Mauritius not later than 30 days thereafter;

“fixation” means the embodiment of sounds, images or both or of the representations thereof, from which they can be perceived, reproduced or communicated through a device;

“infringing copy” –

- (a) means a copy of a work which infringes copyright subsisting in the work;
- (b) includes a counterfeit copy;

“licence” means a written authorisation granted by a copyright owner to another person to exploit the copyright wholly or in part;

“local production” means a work wholly or substantially produced in Mauritius;

“Minister” means the Minister to whom responsibility for the subject of copyright and related rights are assigned;

“Ministry” means the Ministry responsible for the subject of copyright and related rights;
[Inserted 13/17 (cio 14/12/17).]

“moral right” means a right referred in section 7;

“original work” –

- (a) means a work which is the product of a person’s individual creation; but
- (b) excludes a work which is essentially a copy of another work;

“perform” means to present a work or expressions of folklore by a personal rendition;

“performer” means an actor, a singer, a musician, a dancer, and other person who acts, sings, delivers, declaims, plays in, interprets or otherwise performs literary or artistic works or expressions of folklore;

“phonogram” is the fixation of the sounds of a performance or other sounds, or a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work;

“photographic work” means a recording of light or other radiation on any medium on which an image is produced or from which an image may be produced, irrespective of the chemical, electronic or other technique by which such recording is made;

“producer”, in respect of an audiovisual work or a phonogram, means the natural person who or legal entity that undertakes the initiative and responsibility for the making of the audiovisual work or phonogram;

“public performance” means, in the case of –

- (a) a work other than an audiovisual work, the recitation, playing, dancing, acting or otherwise performing the work, either directly or by means of any device or process;
- (b) an audiovisual work, the showing of images in sequence and making of accompanying sounds audible;
- (c) a phonogram, making the recorded sounds audible,

where such performances can be at a place or places where persons outside the normal circle of the family and its closest acquaintances may be present;

“publication or published works” means works published with the consent of their authors, whatever may be the means of manufacture of the copies, provided that the availability of such copies has been such as to satisfy the reasonable requirements of the public, having regard to the nature of the work”;

“related rights” means those rights conferred upon a performer, a producer of phonograms and a broadcasting organisation by this Act;

“rental”, in relation to the original or a copy of a work or phonogram, means the transfer of its possession for a limited period of time for profit;

“reproduction”, in relation to a work or phonogram in any manner or form, including any permanent or temporary storage of the work or phonogram, means the making of one or more copies of the work or phonogram in electronic form;

“reprographic reproduction”, in relation to the original or a copy of a work, means the making of facsimile copies by means other than printing, such as photocopying, whether or not they are reduced or enlarged in scale;

“rights management information” means –

- (a) any information that identifies the author, work, performer, performance of the performer, producer of the phonogram, phonogram, broadcaster, broadcast or owner of any right under this Act; or
- (b) information about the terms and conditions of use of the work, performance, phonogram or broadcast; and
- (c) any number or code that represents such information, when any of these items of information is attached to a copy of a work, fixed performance, phonogram or fixed broadcast, or appears in connection with the broadcasting, communication to the public or making available to the public of a work, fixed performance, phonogram or broadcast;

“Society” means the Mauritius Society of Authors established under section 43; [RR 13/17 (cio 14/12/17).]

“sound recording” means the fixation of a sequence of sounds capable of being perceived aurally and of being reproduced by any appropriate device; [RR 13/17 (cio 14/12/17).]

“technological protection measure” means any technology, device or component that, in the normal course of operation, is designed to prevent or restrict acts, in respect of works or objects of related rights, which are not authorised by the right holder;

“traditional cultural expression” means any form of artistic and literary expression, tangible or intangible, or a combination of both –

- (a) in which traditional culture and knowledge are embodied;
- (b) which is intergenerational, including but not limited to phonetic, verbal and tangible expressions;

“useful article” means an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information;

“work” means any artistic, literary or scientific work, or derivative work;

“work of applied art” means an artistic creation with utilitarian functions or incorporated in a useful article, whether made by hand or produced on an industrial scale;

“work of joint authorship” means a work to the creation of which 2 or more authors have contributed.

[S. 2 amended by s. 7(1) of Act 26 of 2015 w.e.f. 15 April 2015; s. 3 of Act 13 of 2017 w.e.f. 14 December 2017; s. 19 of Act 5 of 2022 w.e.f. 1 June 2022.]

PART II – PROTECTION OF WORKS

3. Protection of works

(1) Every artistic, literary or scientific work shall be an original intellectual creation in the artistic, literary or scientific domain.

(2) Every work shall be protected where it is fixed in some material form and irrespective of its mode or form of expression.

4. Derivative works

The protection of any derivative work shall be without prejudice to any protection of a pre-existing work or traditional cultural expression or expression of folklore incorporated in or utilised for the making of such a work.

5. Subject matter not protected

Notwithstanding sections 3 and 4, no protection under this Act shall extend to –

- (a) any idea, procedure, system, method of operation, concept, principle, discovery or mere data;
- (b) any official text of a legislative, administrative or legal nature, as well as any official translation thereof;
- (c) news of the day or miscellaneous facts having the character of mere items of press information;
- (d) political speeches and speeches delivered in the course of legal proceedings;
- (e) judgment of a court of law or tribunal.

6. Economic rights

(1) Every author or other owner of copyright shall have the exclusive right to carry out or to authorise –

- (a) the reproduction of the work;
- (b) the translation of a work;
- (c) the adaptation, arrangement or other transformation of a work, including its cinematographic adaptation;
- (d) the distribution to the public of the original or a fixed copy of a work;
- (e) the rental of the original or a fixed copy of a work;
- (f) the public performance of a work;
- (g) the broadcasting of a work;
- (h) other forms of communication to the public of a work.

(2) (a) Subject to paragraph (b), the right of distribution under subsection (1)(d) shall not apply to the original or a copy of a work that has already been subject of a sale or other transfer of ownership in any country.

(b) The exhaustion of the right of distribution referred to in paragraph (a) shall not extend to a copy of a work which is obtained in breach of the legal provisions protecting the copyright ownership in that country.

(3) The right of rental under subsection (1)(e) shall not apply to rental of computer programme where the programme itself is not the essential object of the rental.

(4) For the purpose of this section –

“work” means the whole, or a substantial part, of the work.

7. Moral rights

(1) Notwithstanding the economic rights of an author and even after the transfer of the said rights, the author shall have the **moral** right –
[Amended 13/17 (cio 14/12/17).]

- (a) to claim authorship of the work;
- (b) to object to any distortion, mutilation or other modification of, or derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.

(2) (a) The **moral** rights referred to in subsection (1) shall, after the death of the author, be maintained until the expiry of the economic rights.
[Amended 13/17 (cio 14/12/17).]

(b) These **moral** rights shall be exercisable by the heirs of the deceased author or such institution as may be prescribed.
[Amended 13/17 (cio 14/12/17).]

(3) A moral right shall be unassignable.
[S. 7 amended by s. 4 of Act 13 of 2017 w.e.f. 14 December 2017.]

8. Alienation of works

Where an author alienates the original or a copy of his work, he shall not, unless the contract of alienation otherwise provides, be deemed to have –

- (a) transferred any economic right;
- (b) granted a licence; or
- (c) waived the exercise of any moral right.

9. Original ownership of economic rights

(1) Subject to subsections (2) to (4), the original owner of economic rights in respect of a work shall be the author who has created the work.

(2) (a) In respect of a work of joint authorship, the co-authors shall be the original owners of the economic rights.

(b) Where a work of joint authorship consists of parts that may be used separately, and the author of every part can be identified, the author of every part shall be the original owner of the economic rights in the part that he has created.

(3) In respect of a work created by an author, employed by a natural person or legal entity, in the course of his employment, the original owner of the economic rights shall be, unless provided otherwise in a contract, the employer.

(4) (a) Subject to paragraph (b), in respect of an audiovisual work **or phonogram**, the original owner of the economic rights shall be the producer, unless provided otherwise in a contract.

[Amended 13/17 (cio 14/12/17).]

(b) The co-authors of the audiovisual work **or phonogram** and the authors of the pre-existing works included in or adapted for the making of the audiovisual work **or phonogram** shall, however, maintain their economic rights in their contributions or pre-existing works, respectively.

[Amended 13/17 (cio 14/12/17).]

[S. 9 amended by s. 5 of Act 13 of 2017 w.e.f. 14 December 2017.]

10. Presumptions regarding authorship, producer of audiovisual works **or phonograms and publisher**

(1) The natural person whose name is indicated as the author on a work in the usual manner shall be presumed to be the author of the work, even if the name is a pseudonym, where the pseudonym leaves no doubt as to the identity of the author.

(2) The person whose name appears on an audiovisual work **or phonogram** in the usual manner shall be presumed to be the producer of the work.

[Amended 13/17 (cio 14/12/17).]

(3) (a) Subject to subsection (1), in the case of an anonymous or pseudonymous work, the publisher, whose name appears on the work shall be presumed to represent the author and shall be entitled to exercise and enforce the moral and economic rights of the author.

(b) Where the author reveals his identity, the presumption shall cease to apply.

[S. 10 amended by s. 6 of Act 13 of 2017 w.e.f. 14 December 2017.]

11. Contracts for commissioned works

(1) A work which has been commissioned to be created shall be deemed to have been accepted by the person commissioning the work, unless he has rejected it by a written declaration within 3 months from the date the work is delivered to him or within such time as may be agreed between the parties.

(2) A person who has commissioned a work may, within the time specified in subsection (1), return the work to the author with a written request for such corrections or amendments as he may determine.

(3) Where –

(a) an author refuses to comply with a request for correction or amendment; or

- (b) the corrected or amended work does not satisfy the stipulated purpose,

the person who commissioned the work may terminate the contract but shall pay to the author an equitable remuneration in return for the work done by the author.

PART III – FEATURES OF ECONOMIC RIGHTS

12. Assignment and licensing of rights of author

- (1) Economic rights shall be assignable in whole or in part.

(2) Any assignment of an economic right, and any exclusive license to do an act subject to authorisation by the author or other owner of copyright, shall be in writing, signed by –

- (a) the assignor and the assignee; or

- (b) the licensor and the licensee.

(3) An assignment of any economic right, or a licence to do an act subject to authorisation by the author or other owner of copyright, shall not include or be deemed to include the assignment or licence of any other right not explicitly referred to therein.

(4) The scope of an assignment shall be limited to the specific use of the economic right mentioned in the agreement.

(5) Where the ownership of a copy of a work is assigned, the economic rights relating to the work shall not be deemed to have also been assigned.

(6) Where an agreement for the assignment of an economic right fails to mention the time for which the assignment shall operate, the assignment shall terminate 10 years as from the date of assignment.

(7) Where an agreement for the assignment of an economic right fails to mention any country in which the assignment may have effect, the assignment shall only operate in Mauritius.

(8) Where an agreement for the assignment of an economic right fails to specify the ways and means of exploitation of the right, the assignee shall be entitled to exploit the right by such ways and means as are necessary for the purpose envisaged by the parties when the assignment was granted.

(9) Nothing in this section shall prevent the copyright owner of a work from granting a licence, whether exclusive or not, to another person.

13. Agreement regarding future works

(1) Where an author undertakes in writing to grant a licence, or to assign the economic rights concerning future works which are not specified in detail, either party may,

on giving not less than one month's notice, terminate the agreement not earlier than 3 years after it was signed or such shorter period as may have been agreed.

(2) The right of termination referred to in subsection (1) may not be waived in advance.

14. Non-use of economic rights

(1) Subject to subsection (2), where a person to whom an economic right in a work has been assigned or an exclusive licensee does not exercise his right, or does so only inadequately and the author's legitimate interests are prejudiced by such failure, the author may revoke the assignment or exclusive licence.

(2) A revocation in accordance with subsection (1) shall not be effected where the non-exercise or inadequate exercise of a right is primarily due to circumstances which the author can be expected to remedy.

(3) The right to revoke an assignment or a licence in accordance with subsection (1) shall not be exercised earlier than 3 years from the date of assignment or licence, or, if the work is supplied subsequently, from the date of delivery of the work.

(4) The right of revocation referred to in subsection (1) may not be waived in advance.

15. Duration of copyright

(1) The economic and moral rights shall be protected during the lifetime of the author and for 70 years after his death.

[Amended 13/17 (cio 14/12/17).]

(2) For a work of joint authorship, the economic and moral rights shall be protected during the life of the last surviving author and for 70 years after his death.

[Amended 13/17 (cio 14/12/17).]

(3) For an **audiovisual work or phonogram, the economic rights** shall be protected for 70 years from the date on which the work was made or first made available to the public by publication, or by any other means, whichever date is the latest.

[Amended 13/17 (cio 14/12/17).]

(4) For a work published anonymously or under a pseudonym, the economic and moral rights shall be protected for 70 years from the date on which the work was made or first made available to the public, by publication or by any other means, whichever date is the latest, where the author's identity is revealed or is no longer in doubt before the expiration of the said period, subsection (1) or (2) shall apply, as the case may be.

[Amended 13/17 (cio 14/12/17).]

(5) For a work of applied art, the economic and moral rights shall be protected for 25 years from the making of the work.

(6) Every period provided for under this section shall run to the end of the calendar year in which it would otherwise expire.

[S. 15 amended by s. 4 of Act 13 of 2017 w.e.f. 14 December 2017.]

PART IV – LIMITATIONS ON ECONOMIC RIGHTS

16. Private reproduction for personal purposes

(1) Subject to subsection (2), the private reproduction of a legally obtained published work in a single copy shall be permitted, without the authorisation of the author or owner of copyright, where the reproduction is made by a natural person for his own personal use.

(2) The permission under subsection (1) shall not extend to reproduction –

- (a) of a work of architecture in the form of building or other construction;
- (b) in the form of reprography of the whole or of a substantial part of a book or of a musical work in the form of notation;
- (c) of the whole or substantial part of a database in digital form; and
- (d) of a computer programme, except as provided in section 22.

(3) Equitable remuneration shall be paid to the author or copyright owner or to the Society, as applicable.

17. Temporary reproduction

The temporary reproduction of a work shall be permitted where –

- (a) the reproduction is made in the process of a digital transmission of the work or an act of making a digitally stored work perceptible;
- (b) it is caused by a person or entity who, with the authorisation of the owner of copyright or of operation of law, is entitled to make the transmission or making perceptible of the work; and
- (c) it is an accessory to the transmission or making it perceptible, that occurs during the normal operation of the equipment used and entails the automatic deletion of the copy without enabling the retrieval of the work for any other purpose than those referred to in paragraphs (a) and (b).

18. Quotation

(1) The quotation from a work that has lawfully been made available to the public shall be permitted without authorisation of the author or other owner of copyright, where the quotation –

- (a) is compatible with fair practice;
- (b) does not exceed the extent justified by the purpose; and
- (c) is used for the purpose of caricature, parody or pastiche.

(2) The quotation shall be accompanied by an indication of source and the name of the author where the name appears in the source from which the quotation is taken.

19. Reproduction and other utilisation for teaching and scientific non-commercial purposes

(1) The following acts shall be permitted in respect of a work without the authorisation of the author or other owner of copyright –

- (a) the utilisation for scientific research purposes or by way of illustration for teaching of a work that has lawfully been made available to the public, in publications, broadcasting or sound or visual recordings, where such utilisation –
 - (i) is compatible with fair practice; and
 - (ii) does not exceed the extent justified by the purpose;
- (b) the reprographic reproduction, for face to face teaching in educational institutions of which the activities do not serve direct or indirect commercial gain, of published articles, other short works or short extracts of works, to the extent justified by the purpose, where –
 - (i) the reproduction of any particular work is an isolated act occurring, if repeated, on separate and unrelated occasions;
 - (ii) no more than a single copy for each pupil or student and the teacher is made; and
 - (iii) there is no collective licence offered or made available by a collective administration organisation of which the educational institution is or ought to be aware, under which such reproduction may be made.

(2) The source of the work and the name of the author shall be indicated, as far as practicable –

- (a) on all copies made under subsection (1); or
- (b) in reasonable connection with the work.

(3) For the purposes of this section –

“utilisation” includes the making available of such works in computer networks, where access to the works is only available to enrolled pupils or students and their teachers.

20. Reproduction by libraries and archives

Any library or archive, whose activities do not serve direct or indirect commercial gain, may, without the authorisation of the author or other owner of copyright, make a copy of a work –

- (a) by reprographic reproduction –
 - (i) where the work reproduced is a published article, other short work or short extract of a work, and
 - (ii) the purpose of the reproduction is to satisfy the request of a person, where –
 - (A) the library or archive is satisfied that the copy shall be used solely for the purposes of study, scholarship or private research;
 - (B) the reproduction of any particular work is an isolated act occurring, if repeated, on separate and unrelated occasions; and
 - (C) there is no collective licence available offered by [the Society](#); [\[Amended 13/17 \(cio 14/12/17\).\]](#)
- (b) to preserve and, if necessary, replace a copy which has been lost, destroyed, or rendered unusable in its own permanent collection or the permanent collection of another similar library or archive, where it is impossible to obtain such a copy under reasonable conditions.

[\[S. 20 amended by s. 9 of Act 13 of 2017 w.e.f. 14 December 2017.\]](#)

21. Reproduction, broadcasting and other communication to the public for informatory purposes

The following acts shall be permitted in respect of a work without the authorisation of the author or other owner of copyright, subject to the obligation to indicate the source and the name of the author, as far as practicable –

- (a) the reproduction in a newspaper or periodical, the broadcasting or other communication to the public, of an article published in a newspaper or periodical on current economic, political or religious topics or a broadcast work of the same character except that this permission shall not apply where the right to authorise reproduction, broadcasting or other communication to the public is expressly reserved on the copies by the author or other owner of copyright, or in connection with broadcasting or other communication to the public of the work;

- (b) for the purpose of reporting current events, the reproduction and the broadcasting or other communication to the public of short excerpts of a work seen or heard in the course of such events, to the extent justified by the purpose;
- (c) the reproduction in a newspaper or periodical, the broadcasting or other communication to the public of a lecture, address, sermon or other work of a similar nature delivered in public, to the extent justified by the purpose of providing current information.

22. Reproduction , adaptation of computer programmes and decompilation

(1) The reproduction, in a single copy, or the adaptation of a computer programme by the lawful owner of a copy of that computer programme shall be permitted without the authorisation of the author, or other owner of copyright where the copy or adaptation is necessary for –

- (a) use of the computer programme with a computer for the purpose and extent for which the computer programme has been obtained;
- (b) archival purposes; or
- (c) the replacement of the lawfully owned copy of the computer programme in the event that the said copy of the computer programme is lost, destroyed or rendered unusable.

(2) No copy or adaptation of a computer programme shall be used for any purpose other than those specified in subsection (1), and any such copy or adaptation shall be destroyed in the event that continued possession of the copy of the computer programme ceases to be lawful.

(3) The authorisation of the lawful owner of a computer programme is not required where reproduction of the code and translation of its form are indispensable to obtain the information necessary to achieve the interoperability of an independently created computer programme with other programmes, unless the following conditions are satisfied –

- (a) those acts are performed by the licensee or another person having a right to use a copy of a program;
- (b) the information necessary to achieve interoperability has not previously been readily available;
- (c) those acts are confined to the parts of the original program which are necessary in order to achieve interoperability.

23. Visually impaired person

(1) It shall be permitted, without the authorisation of the author or other owner of copyright, to reproduce a published work for persons who are blind, visually impaired or otherwise print disabled, in an alternative manner or form which enables their perception of

the work, and to distribute and make available the copies exclusively to those persons, where –

- (a) the work is not reasonably available in an identical or largely equivalent form enabling its perception by these persons; and
- (b) the reproduction and distribution are made on a non-profit basis.

(2) Distribution shall also be permitted where copies for the visually impaired persons have been made abroad and the conditions referred to in subsection (1) are satisfied.

(3) A copy made under subsections (1) and (2) shall indicate the source and the name of the author, and it shall be permitted for an authorised entity to distribute or make available that copy to a beneficiary person or an authorised entity abroad.

(4) For the purposes of subsection (1), it shall be permitted to make the changes needed to make the work accessible in the alternative format.

24. Ephemeral recordings

(1) Any broadcasting organisation may, without the authorisation of the author or other owner of copyright, make for the purpose of its own broadcasts, and by means of its own facilities, an ephemeral recording of any work which it is authorised to broadcast.

(2) A copy made under subsection (1) shall be destroyed within 6 months of its making or such longer term as may be agreed to by the author.

(3) Notwithstanding subsection (2), where such recording has an exceptional documentary character, one copy of it may be preserved in official archives.

25. Importation for personal purposes

The importation of a copy of a work, by a physical person, for his personal purposes, shall be permitted without the authorisation of the author of, or other owner of copyright in, the work.

26. Distribution of copies of works

Where a work is distributed by means of the sale of fixed copies to the public, the copies may, without the author's authorisation and without payment of remuneration, be redistributed by means of sale.

27. Public lending

(1) A library or archive whose activities do not, directly or indirectly, serve commercial gain may, without the authorisation of the author, lend to a member of the public a copy of a work, other than a computer programme, which is part of the permanent collection of the library or archive.

(2) Every library or archive referred to in subsection (1) shall pay **an equitable remuneration to the Society which shall distribute it to the author entitled thereto.**
[Amended 13/17 (cio 14/12/17).]

[S. 27 amended by s. 10 of Act 13 of 2017 w.e.f. 14 December 2017.]

28. Display of works

The public display of originals or copies of works shall be permitted without the authorisation of the author, where –

- (a) the display is not made by means of –
 - (i) a film, slide, television image, or otherwise, on screen; or
 - (ii) any other device or process; and
- (b) (i) the work is published; or
 - (ii) the original or the copy displayed is sold, given away or otherwise transferred to another person by the author.

28A. Conditions for use of copyright protected works

The limitations on economic rights in this part shall be applicable where they do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the owner of the work.

[S. 28A inserted by s. 11 of Act 13 of 2017 w.e.f. 14 December 2017.]

PART V – BROADCASTING ORGANISATIONS, PERFORMERS AND PRODUCERS

29. Rights of broadcasting organisation

(1) A broadcasting organisation shall have the exclusive right to carry out, authorise or prohibit any of –

- (a) the rebroadcasting of its broadcast;
- (b) the communication to the public of its broadcast;
- (c) the fixation of its broadcast;
- (d) the reproduction of a fixation of its broadcast.

(2) The rights under this section shall be protected from the moment the broadcasting takes place until the end of the twentieth calendar year following the year in which the broadcast takes place.

(3) Programme-carrying signals, transmitted by satellite, which are not intended for direct reception by the public, but for simultaneous or subsequent broadcasting or cable distribution by an authorised receiving organisation, may not be broadcast or communicated to the public without the authorisation of the broadcasting organisation that decided what programme the emitted signal would carry.

30. Rights of performer

(1) Every performer shall have the exclusive right to carry out or authorise –

- (a) the broadcasting or other communication to the public of his performance, except where the broadcasting or the other communication –
 - (i) is made from a fixation of the performance which the performer has authorised to be made; or
 - (ii) is a rebroadcasting made or authorised by the organisation initially broadcasting the performance;
- (b) the fixation of his unfixed performance;
- (c) the direct or indirect reproduction of a fixation of his performance, in any manner or form;
- (d) the distribution of a fixation of his performance, or fixed copies thereof, to the public;
- (e) the rental to the public of a fixation of his performance or their fixed copies; or
- (f) the making available to the public of his fixed performance, by wire or wireless means, in such a way that members of the public may access them from a place or at a time individually chosen by them.

(2) (a) Subsection (1) shall not apply where the performer has authorised the incorporation of his performance in an audiovisual fixation.

(b) Unless otherwise agreed in writing, the performer shall be deemed to have assigned his exclusive economic rights with respect to the fixation to its producer.

(3) The right of distribution under subsection (1)(d) shall not apply to a fixed copy of a fixation of his performance that has already been subject to a sale or other transfer of ownership authorised by the performer in any country.

(4) (a) Notwithstanding the economic rights of the performer, and even after the transfer of those rights, the performer shall have the right to –

- (i) claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance; and
- (ii) object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation.

(b) Modifications consistent with the normal exploitation of a performance in the course of a use authorised by the performer shall not be considered prejudicial to the performer's reputation.

(5) The rights under this section shall be protected until the end of the **seventieth** calendar year following the year in which the performance was fixed.
[Amended 13/17 (cio 14/12/17).]

[S. 30 amended by s. 12 of Act 13 of 2017 w.e.f. 14 December 2017.]

31. Grant of authorisation by performer

An authorisation under section 30 shall be given by a performer or by a duly appointed representative to whom the performer has delegated his power in writing.

[S. 31 amended by s. 13 of Act 13 of 2017 w.e.f. 14 December 2017.]

32. Rights of phonogram producer

(1) Every producer of a phonogram shall have the exclusive right to carry out or authorise –

- (a) the direct or indirect reproduction of the phonogram in any manner or form;
- (b) the distribution of the original or copies of the phonogram to the public;
- (c) the rental of a copy of the phonogram to the public;
- (d) the making available to the public of the phonogram, by wire or wireless means, in such a way that members of the public may access it from a **place and** at a time individually chosen by them.

[Amended 13/17 (cio 14/12/17).]

(2) The right of distribution under subsection (1)(b) shall not apply to the original or the copy of the phonogram that has already been subject to a sale or other transfer of ownership authorised by the producer in any country.

(3) The rights under subsection (1) shall be protected –

- (a) where the phonogram has been published, until the end of the **seventieth** calendar year following the year of publication;

[Amended 13/17 (cio 14/12/17).]

- (b) where the phonogram has not been published, from the fixation of the phonogram until the end of the **seventieth** calendar year following the year of fixation.

[Amended 13/17 (cio 14/12/17).]

[S. 32 amended by s. 14 of Act 13 of 2017 w.e.f. 14 December 2017.]

33. Obligations of producer

(1) –
[R 13/17 (cio 14/12/17).]

(2) Every producer of a sound recording shall state, on the label of the recording or on its container –

- (a) the names of the author and of the main performer;
- (b) the title of the work;
- (c) the name or distinguishing mark of the producer; and
- (d) that the rights accruing to the producer under this Act are reserved.

(3) For the purpose of subsection (2)(a), a choir or an orchestra shall be referred to by its name and that of its leader, if any.

[S. 33 amended by s. 15 of Act 13 of 2017 w.e.f. 14 December 2017.]

34. Notice of protection of rights of producers

(1) Where a copy of a sound recording or an audiovisual work is made for commercial purposes, the label of the recording or its container shall conspicuously bear a notice, as follows –

- (a) the symbol “P”;
- (b) the hologram of the Society;
- (c) the year of the first publication; and
- (d) the name of the copyright owner.

(2) The notice referred to in subsection (1) shall be placed in a manner that gives reasonable indication of claim of protection to the rights of the producer.

(3) Where the notice referred to in subsection (1) does not identify –

- (a) the producer, it shall indicate the name of the person who owns the rights of the producer;
- (b) the principal performer, it shall indicate the name of the person who owns the rights of the performers.

(4) Where a producer fails to comply with this section, this shall not deprive the producer of copyright protection.

(5) No person shall deal in, or have in his possession, a copy of a sound recording or an audiovisual work referred to in subsection (1) unless the hologram of the Society is affixed on its label or container.

[S.34 repealed and replaced by s. 16 of Act 13 of 2017 w.e.f. 14 December 2017.]

35. Equitable remuneration for use of phonogram

(1) Subject to subsection (5), where a phonogram published for commercial purposes, or a reproduction of such phonogram, is used for broadcasting or other communication to the public, or is publicly performed, a single equitable remuneration for the performer and the producer of the phonogram shall, as the case may be, be paid by the user to the Society.

[Amended 13/17 (cio 14/12/17).]

(2) Unless otherwise agreed between the performer and the producer, the amount received under subsection (1) shall be paid by the Society in equal amount to the performer and producer.

[RR 13/17 (cio 14/12/17).]

(3) Where the phonogram is protected under section 32(3), the right to an equitable remuneration under this section shall subsist from the date of publication of the phonogram until the end of the **seventieth** calendar year following the year of publication.

[Amended 13/17 (cio 14/12/17).]

(4) For the purpose of this section, phonograms that have been made available to the public by wire or wireless in such a way that members of the public may access them from a place and at a time individually chosen by them shall be considered as if they have been published for commercial purposes.

(5) **Section 35(1)** shall not apply to the extent that the use of the phonogram is covered by an exclusive right under section 32.

[Amended 13/17 (cio 14/12/17).]

[S. 35 amended by s. 17 of Act 13 of 2017 w.e.f. 14 December 2017.]

36. Limitation on protection

Sections 29 to 32 shall not apply where the acts referred to in those sections are related to –

- (a) using short excerpts for reporting current events to the extent justified by the purpose of providing current information;
- (b) reproduction solely for scientific research;
- (c) reproduction solely for the purpose of teaching activities, except for performances and phonograms which have been published as teaching or instructional materials;
- (d) instances where, under [Part IV](#), a work may be used without the authorisation of the author or other owner of copyright.

[Amended 13/17 (cio 14/12/17).]

[S. 36 amended by s. 18 of Act 13 of 2017 w.e.f. 14 December 2017.]

PART VI – ANTI-CIRCUMVENTION

37. Technological protection measures

- (1) No person shall –
 - (a) circumvent effective technological protection measures; or
 - (b)
 - (i) produce, import, distribute, sell, rent, advertise for sale or rental, or
 - (ii) possess a device, product, component or service for commercial purposes that –
 - (A) is promoted, advertised or marketed for the purpose of circumventing effective technological protection measures;
 - (B) has only a limited commercially significant purpose or use other than to circumvent effective technological protection measures; or
 - (C) is primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technological protection measures.

(2) In this section a technological protection measure shall be considered effective where the use of a work or related right is controlled by the right holder through application of an access control or protection process such as encryption, scrambling or other transformation of the work or other subject matter, or a copy control mechanism which, in the normal course of its operation, achieves the protection objective.

(3) Notwithstanding subsection (1), on the request by the beneficiary of an exception or limitation in accordance with sections 14, 15, 16, 18, 19, 20 or 21, the right

holder shall have the technological protection measure lifted, to the extent necessary, for the beneficiary to fully benefit from the exception or limitation, as applicable.

(4) The provisions of subsection (2) shall not apply to works or other subject matter made available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them.

38. Protection of rights management information

(1) No person shall –

- (a) remove or alter any electronic rights management information without the consent of the right holder; or
- (b) distribute, import for distribution, broadcast or communicate to the public of works or other subject matter protected under this Act from which electronic copyright management information has been removed or altered without the authorisation of the right owner when such act will induce, enable, facilitate or conceal an infringement of any right covered by this Act.

(2) Subsection (1) shall not prohibit any governmental activities for public policy or security authorised by law.

39. Prohibited acts assimilated to infringement of rights

Any action or prosecution under sections 29(4), 37 and 38 shall be without prejudice to any action or prosecution for infringement of copyright or related rights under this Act.

PART VII – APPLICATION OF ACT

40. Scope of application of copyright

(1) In relation to the protection of artistic, literary or scientific works, this Act shall apply to –

- (a) works of authors who are citizens of, or have their habitual residence, in Mauritius;
- (b) works first published –
 - (i) in Mauritius; or
 - (ii) in another country and published thereafter in Mauritius, within 30 days, irrespective of the citizenship or residence of their authors;
- (c) audiovisual works, the producer of which has his headquarters or habitual residence in Mauritius; or

- (d) works of architecture erected in Mauritius, including other artistic works incorporated in a building or other structure located in Mauritius.

(2) This Act shall also apply to works that are eligible for protection in Mauritius by virtue of, and in accordance with, any international convention or other international agreement to which Mauritius is a party and as are prescribed.

41. Scope of application of related rights

(1) The provisions of this Act relating to the protection of performers shall apply to performers taking part in a performance –

- (a) taking place in Mauritius;
- (b) incorporated in phonograms that are protected under this Act; or
- (c) which has **not been fixed in a phonogram but is carried by a broadcast** protected under this Act.
[Amended 13/17 (cio 14/12/17).]

(2) This Act relating to the protection of phonograms shall apply to phonograms produced, first fixed or first published in Mauritius;

(3) The provisions of this Act concerning the protection of broadcasts shall apply to –

- (a) broadcasts of a broadcasting organisation; or the headquarters of which are situated in Mauritius;
- (b) broadcasts transmitted from transmitters situated in Mauritius.

(4) This Act shall also apply to performers, producers of phonograms, broadcasting organisations and originating organisations which are eligible for protection by virtue of and in accordance with any international convention or other international agreement to which Mauritius is party and as are prescribed.

[S. 41 amended by s. 18 of Act 13 of 2017 w.e.f. 14 December 2017.]

PART VIII – THE SOCIETY

42. Management of rights

Copyright and related rights may be managed by –

- (a) –
[RR 13/17 (cio 14/12/17).]

(b) the Society.

[S. 42 amended by s. 4 of Act 13 of 2017 w.e.f. 14 December 2017.]

43. Establishment of Society

(1) There shall be established for the purposes of this Act the Mauritius Society of Authors which shall be a body corporate.

[Am 13/17 (cio 14/12/17)]

(2) The Society shall be managed and administered by a Board and shall have its own seal.

[RR 13/17 (cio 8/3/18)]

(3) The Board shall consist of –

- (a) a Chairperson, to be appointed by the Minister;
- (b) a representative of the Ministry;
- (c) a representative of the Attorney-General's Office;
- (d) a representative of the Ministry responsible for the subject of finance;
- (e) a representative of the Ministry responsible for the subject of industry;
- (f) a representative of the Ministry responsible for the subject of information and communication technology;
- (g) a representative of the Customs Department;
- (h) a representative of the Industrial Property Office;
- (i) a member having knowledge and experience in the field of copyright and related rights, to be appointed by the Minister after consultation with such persons as the Minister may determine; and
- (j) (j) 7 other members, to be elected, subject to subsection (3A), from amongst the categories referred to in the Schedule, and in accordance with the procedure for the holding of an election as specified in that Schedule.

[RR 13/17 (cio 8/3/18)]

(3A) Where no nomination is received for the election of members in any category referred to in the Schedule, the Minister shall appoint a member for that category.

[Inserted 13/17 (cio 8/3/18)]

(3B) Where an elected member dies, retires, resigns or is removed from office, the vacancy caused shall be filled, for the remaining period of the term of office –

- (a) by appointing the person who obtained the highest number of votes in the relevant category, as appropriate, after the elected members at the preceding election held; or
- (b) where no person is qualified for appointment under paragraph (a), by a person of that category, to be appointed by the Minister.

(4) The composition of the Board shall be published in the Gazette.
[RR 13/17 (cio 8/3/18)]

(5) Every member, other than a member referred to in subsection (3)(b) to (h), shall hold office for a period of 3 years and shall be eligible for re-election or reappointment for one additional term.
[RR 13/17 (cio 8/3/18)]

(6) At any meeting of the Board, 9 members shall constitute a quorum.
[RR 13/17 (cio 8/3/18)]

(7) Every member shall be paid such allowance or fees as the Board may, after consultation with the Minister, determine.
[RR 13/17 (cio 8/3/18)]

(8) For the purpose of subsection (3)(i), the election of the members of the Society shall be held within 3 months from the commencement of this section.
[Added 13/17 (cio 8/3/18)]

(9) (a) All rights, obligations and liabilities subsisting in favour of or against the Rights Management Society shall, on the commencement of this section, continue to exist under the same terms and conditions in favour of or against the Mauritius Society of Authors.

(b) Any act or thing done, or any contract or agreement entered into, by the Rights Management Society shall, on the commencement of this section, be deemed to have been done or entered into by the Mauritius Society of Authors.

(c) All proceedings, judicial or otherwise, initiated before and pending on the commencement of this section, by or against the Rights Management Society, shall be deemed to have been initiated, and may be continued, by or against the Mauritius Society of Authors.

[Added 13/17 (cio 8/3/18)]

[S. 43 amended by s21 of Act 13 of 2017 w.e.f. 8 March 2018.]

44. Appointment of staff

(1) The Board shall appoint on such terms and conditions as appropriate –

(a) a Director who shall –

(i) be responsible for the day-to-day management of the Society;

(ii) execute the policy of the Board; and

(iii) act in accordance with such directions, not inconsistent with this Act, as he may receive from the Board.

(aa) a Secretary to the Board who shall –

- (i) for every meeting of the Board, give notice of the meeting to the members and keep minutes of proceedings of every meeting; and
 - (ii) carry out such other duties as the Board may assign to him.
[Inserted 13/17 (cio 8/3/18)]
- (2) such other staff as may be necessary for the proper discharge of the functions of the Society.
- (3) The staff referred to in subsection (1)(b) shall be under the administrative control of the Director.
[S. 44 amended by s. 22 of Act 13 of 2017 w.e.f. 8 March 2018)]

45. Functions of Society

The Society shall –

- (a) collect copyright fees and charges from the users of a work, on behalf of its members, and distribute those fees among the members;
- (b) determine the criteria for, and classes of, membership of the Society;
- (c) represent and defend the interests of its members in Mauritius and abroad;
- (d) contribute, by all appropriate means, to the promotion of national creativity in the artistic, literary and scientific fields;
- (e) administer within Mauritius such economic rights of its members as it may determine;
- (f) negotiate with any users of a work –
 - (i) the conditions of, and the fees and charges to be paid for, the authorisation to be given to do an act covered by any economic rights referred to in paragraph (e);
 - (ii) the amount of equitable remuneration where the right to such remuneration is administered by the Society;
- (g) grant any authorisation which it is permitted to give under this Act;
- (h) enter into reciprocal agreements with foreign collective management organisations for the issue of exclusive authorisation in respect of their members' works and for the collection and distribution of copyright fees deriving from those works;
- (i) endeavour to obtain the transfer of membership of Mauritian authors who are members of foreign collective management organisations and safeguard in favour of the Mauritian authors whose membership has been transferred, all the advantages which may have accrued to them before the transfer;

- (j) enter into contracts with relevant persons, for the benefit of its members, regarding the use of the works of the members;
- (k) foster such harmony and understanding between copyright owners and the users of their works as may be necessary for the protection of the economic rights of the authors;
- (l) provide its members with information or advice on all matters relating to copyright;
- (m) establish and administer a Provident Fund and a Benevolent Fund for its members and their heirs; and
- (n) discharge such other functions as may be prescribed.

[S. 45 repealed and replaced by s. 4 of Act 13 of 2017 w.e.f. 14 December 2017.]

45A. Committees

(1) The Board may set up such committees as it may determine to assist it in the discharge of its functions and the exercise of its powers.

(2) (a) A committee shall consist of at least 3 members and 2 other persons with relevant expertise not already available to the Board as the Board may co-opt.

(b) The members and persons referred to in paragraph (a) shall be appointed by the Board on such terms and conditions as it may determine and be paid such allowance as the Board may determine.

(3) The Board shall appoint a chairperson of the committee.

(4) A committee shall meet as often as may be necessary and at such time and place as the chairperson of the committee may determine.

(5) A committee shall, within such time as the Board may determine, submit its report on any matter referred to it.

(6) The report referred to in subsection (5) shall contain the observations, comments and recommendations of the committee.

(7) Subject to this section, a committee shall regulate its meetings and proceedings in such manner as it may determine.

[S. 45A inserted by s. 24 of Act 13 of 2017 w.e.f. 8 March 2018]

46. Membership of Society

(1) (a) A copyright owner or exclusive licensee may, in accordance with the rules of the Society, apply for membership of the Society.

(b) The Society shall manage the economic rights of its members where such members deposit their works with the Society.

[RR 13/17 (cio 14/12/17).]

(2) The Society may, on receipt of an application under subsection (1), request the applicant to furnish such particulars as it may require for the purpose of determining whether the application ought to be granted or not.

(3) The Society may refuse the application or grant it on such terms and conditions and on payment of such membership fee as are provided for in its rules.

47. General Fund

(1) The Society shall establish a General Fund –

- (a) into which any money received by the Society shall be paid;
- (b) out of which all payments required to be made by the Society shall be effected.

(2) The Society may, in the discharge of its functions and in accordance with the terms and conditions upon which its funds may have been obtained or derived, charge to the General Fund all remunerations, allowances, salaries, fees, gratuities, working expenses and other charges properly arising.

(3) The Society shall manage, utilise, or invest the assets and the funds of the Society in such manner and for such purposes as in its opinion will best promote its interests.

48. Annual report

(1) The Director shall, in accordance with the Statutory Bodies (Accounts and Audit) Act, prepare, in respect of every financial year, an annual report and submit it to the Board for approval, together with an audited statement of accounts on the operations of the Society.

(2) The auditor to be appointed under section 5(1) of the Statutory Bodies (Accounts and Audit) Act shall be the Director of Audit.

[S. 48 repealed and replaced by s. 26 of Act 13 of 2017 w.e.f. 14 December 2017.]

48A. Directions by Minister

(1) The Minister may give such written directions of a general character to the Society, not inconsistent with this Act, as he considers necessary in the public interest, and the Society shall comply with those directions.

(2) The Minister may require the Society to furnish such information in such manner and at such time as he thinks necessary in respect of its activities and the Society shall supply such information.

[S. 48A inserted by s. 27 of Act 13 of 2017 w.e.f. 14 December 2017.]

49. Execution of documents

(1) Subject to subsection (2), any document shall be deemed to be properly executed by or on behalf of the Society, where it is signed by the Chairperson and the Director.

(2) Where the Chairperson or the Director is unable to sign any document, the Board may designate a member of the Board to sign the document.

50. Exemptions

(1) Article 910 of the Code Napoleon shall not apply to the Society.

(2) The Society shall not be liable to the payment of income tax.

(3) No registration duty shall be payable in respect of any document signed or executed by the Society or under which it is the sole beneficiary.

51. Rules

(1) The Board may, [with the approval of the Minister](#), make such rules as it thinks fit in order to implement the objects of the Society.

[\[Amended 13/17 \(cio 14/12/17\).\]](#)

(2) The rules made under subsection (1) shall be published in the *Gazette*.

(3) Any rules made under subsection (1) shall be approved by the Minister.

51A. Amendment of Schedule

[The Minister may, by regulations, amend the Schedule.](#)

[\[Inserted 13/17 \(cio 8/3/17\)\]](#)

[\[S. 51A inserted by s. 28A of Act 13 of 2017 w.e.f. 8 March 2018.\]](#)

52. Protection from Liability

No action shall lie against the Society, the Board, any member of the Board or any employee of the Society, as the case may be, in respect of any act done or omission made by it or him in good faith, in the performance of its or his functions under this Act or any other enactment.

PART IX – JUDICIAL PROCEEDINGS

53. Special remedies

(1) The Supreme Court may, notwithstanding any other enactment and without prejudice to such action as the author or right holder may have under such other enactment, grant such remedies, by way of damages, injunction, forfeiture of any infringing copy and of any apparatus, article or thing used for the making the infringing copy or otherwise, as the Court thinks fit.

(2) Without prejudice to any action or claim which he may have, a copyright owner or author may apply to a Judge in Chambers for an injunction or order for a *mesure conservatoire* as is appropriate in the circumstances, for the protection against infringement of his rights under this Act.

(3) An order under subsection (1) may include –

- (a) the forfeiture or seizure of any infringing copy or any apparatus, article or thing used for the making the infringing copy;
- (b) handing over to the copyright owner or author any infringing copy.

54. Presumptions

(1) In any action for an alleged infringement of copyright –

- (a) it shall be presumed, unless the defendant puts it in issue, that –
 - (i) copyright or related right subsists in the work to which the action relates;
 - (ii) the plaintiff is the right holder if he claims so to be;
 - (iii) the person whose name is indicated on an audiovisual work in the usual manner as being the producer is the producer of the work.
- (b) it shall be presumed, unless the contrary is proved, that the person named as author of a published work, if it were his true name or a name by which he was commonly known, is the author of the work;
- (c) where it is proved or admitted that the author of a work is dead or a work was published anonymously or under a pseudonym, it shall be presumed, unless the contrary is proved, that –
 - (i) the work is an original work;
 - (ii) any allegation by the plaintiff that the publication was a first publication and occurred in a specified country on a specific date is true;
 - (iii) in the case of a work which was published anonymously or under a pseudonym, the publisher of the work is the copyright owner.

55. Vain threats

(1) Subject to subsection (2), where a person who claims to be a right holder or an exclusive licensee threatens any other person with legal proceedings in respect of an alleged infringement of his copyright or related right, the person threatened may –

- (a) bring an action against the claimant and obtain an injunction against the continuance of the threat;
- (b) recover damages for any injury which he has sustained where the alleged infringement to which the threat related was not in fact an infringement of any copyright or other intellectual property rights of the claimant.

(2) Subsection (1) shall not apply where the claimant commences and prosecutes an action with due diligence for infringement of his copyright or related rights.

56. Offences

(1) Any person who –

- (a) without the written authorisation of the copyright owner or Society –
 - (i) publishes, distributes, sells or reproduces a work;
 - (ii) performs a work in public;
 - (iii) communicates a work to the public;
 - (iv) broadcasts a work;
 - (v) makes a derivative work;
 - (vi) imports otherwise than exclusively for his own private and personal use, buys, sells, exposes, offers for sale or hire, or has in his possession in the course of trade, any copy of a work which constitutes an infringement of the copyright of its owner, or would constitute such an infringement if the copy of the work were made in Mauritius;
 - (vii) has, in his possession, any copy of a work which constitutes an infringement;
- (b) manufactures, or imports for sale or rental, any device or means which is –
 - (i) specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work or to impair the quality of any copy made thereof; or
 - (ii) susceptible to enable or assist in the reception of an encrypted program, which is broadcast or otherwise communicated to the public, by a person who is not entitled to receive the program;

- (c) has, in his possession in the course of trade any apparatus, article or thing, knowing that it is to be used for making infringing copies of a work or for a purpose referred to in paragraph (b);
- (d) in any other manner contravenes this Act,

shall commit an offence.

[RR 13/17 (cio 14/12/17).]

(2) For the purposes of subsection (1)(a), where a work is communicated to the public on the premises of an occupier by the operation of any apparatus which is provided by or with the consent of the occupier of those premises, the occupier shall be deemed to be the person communicating the work to the public, whether he operates the apparatus or not.

(3) (a) Any person who commits an offence shall –

- (i) on a first conviction, be liable to a fine not exceeding 300,000 rupees and to imprisonment for a term not exceeding 2 years;
- (ii) on a second or subsequent offence, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 8 years.

(b) Notwithstanding any other enactment, the Magistrate of the Intermediate Court shall have exclusive jurisdiction to try any person at first instance charged with an offence under this Act.

(4) The Court before which a person is convicted of an offence may, in addition to any other penalty imposed –

- (a) order the forfeiture of any apparatus, article or thing which is the subject-matter of the offence or is used in connection with the commission of the offence;
- (b) order that such apparatus, article or thing shall be delivered up to any person lawfully entitled to it.

[S. 56 amended by s. 29 of Act 13 of 2017 w.e.f. 14 December 2017.]

PART X – MISCELLANEOUS

57. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Regulations made under subsection (1) may provide for the levying of fees and charges.

58. Transitional provisions

- (1) In this section –
“former Society” means the Mauritius Society of Authors established under the Copyright Act.
- (2) Every asset, right or liability of the former Society shall vest in or attach to, the Society.
- (3) Any act commenced or done by, or in relation to the former Society shall be deemed to have been commenced or done by or in relation to, the Society.
- (4) Any action or judicial proceedings entered by or against the former Society shall be deemed to have been validly entered by or against the Society.
- (5) Any contract of employment as regards the staff of the former Society and which are still valid at the time of coming into force of this Act, shall be deemed to have been duly entered by the Society.
- (6) Any reciprocal agreement made with foreign societies by the former Society shall be deemed to have been validly entered into by the Society.
- (7) Any authorisation or licence issued by the former Society and which is still valid at the time of coming into force of this Act, shall be deemed to have been validly issued by the Society.
- (8) Any rules made by the former Society shall be deemed to have been made by the Society under this Act.

59. Repeal and savings

(1) The Copyright Act 1997 is repealed.

(2) Notwithstanding subsection (1), any protection granted to or enjoyed by a copyright owner or author under the Copyright Act, except in respect of exhaustion of rights and parallel imports, and which is still subsisting at the time of coming into force of this Act, shall continue to apply as if granted under this Act.

(3) Any contract relating to a work, performance, phonogram or broadcast entered prior to the coming into force of this Act and which is still valid at the time of coming into force of this Act, shall be deemed to have been made under this Act.

(4) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for that purpose.

60. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

SCHEDULE [Section 43(3)(j)]

RULES OF ELECTION

Sub-Part A – Categories

Seven members shall be elected from amongst the following categories, as follows –

- (a) 2 members from the category of Music Author, Composer and Performer;
- (b) 2 members from the category of Audiovisual/Theatrical;
- (c) one member from the category of Literary Author;
- (d) one member from the category of Publisher; and
- (e) one member from the category of Other Works.

Sub-Part B – Procedure for Election

1. Calling for nominations and appointment of nomination day

Not less than one month before the expiry of the three-month period specified in section 43(8) of the Act, and thereafter, not less than one month before the expiry of the term

of office of the members referred to in section 43(3)(j), the Secretary to the Board shall publish in the Gazette and such newspaper as the Society may determine, a notice inviting the submission of nominations and appointing a day on, and the time at, which nominations shall be submitted.

2. Eligibility to stand as candidate

No person shall be eligible to stand as candidate for election as a member of the Board unless, on nomination day, he is a member of the Society.

3. Procedure after nomination

(1) If the number of persons nominated exceeds the number of persons to be elected, the Secretary to the Board shall publish in the Gazette and such newspaper as the Society may determine, a notice –

- (a) specifying the names of persons duly nominated;
- (b) appointing a day, time and place, being not less than 15 days after the publication of the notice, for the holding of an election.

(2) A person who has been nominated shall not publish or distribute any manifesto which is likely to induce persons to vote for him to be a member of the Board.

4. Persons entitled to vote

(1) Every person who, on nomination day, is a member of the Society shall be entitled to vote at an election of the members of the Board.

(2) Every member of the Society voting pursuant to subparagraph (1) shall vote for such number of candidates as there are vacancies available in the membership of the Board.

(3) Any vote which is cast contrary to subparagraph (2) shall be null and void.

5. Election

(1) The election of members of the Board shall be conducted by the Office of the Electoral Commissioner who shall communicate the results to the Secretary to the Board.

(2) The Secretary to the Board shall forthwith submit to the Minister the results of the election.

(3) The Minister shall, within 21 days from the date of receipt of the results of the election, publish in the Gazette the names of the elected members of the Board.

6. In this Sub-part –

“person” includes an organisation.

Sch. repealed and replaced by s. 30 of Act 13 of 2017 w.e.f. 8 March 2018.]
