

Copyright

Review of the
WORLD INTELLECTUAL PROPERTY
ORGANIZATION (WIPO)

and the United International Bureaux for the
Protection of Intellectual Property (BIRPI)

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(c) uses for the purposes of exhibition to the public a cinematograph film so made, he shall be guilty of an offence under this Ordinance, and shall be liable, on conviction, to a fine not exceeding fifty pounds:

Provided that, where a person is charged with an offence under paragraph (a) of this section, it shall be a defence to satisfy the court before which such person is charged that the cinematograph film was made for private and domestic use only and not for sale or for any commercial purpose.

*Penalization of broadcasting and relaying
without consent of performers*

5. — (1) Subject to the provisions of this Ordinance, a person who knowingly, without the consent in writing of the performers—

(a) broadcasts, otherwise than by the use of a record or cinematograph film, a performance, or any part thereof; or

(b) causes, otherwise than by the use of a record or cinematograph film or the reception of a broadcast, a performance, or any part thereof—

(i) to be transmitted to subscribers to a diffusion service; or

(ii) to be transmitted over wires or other paths provided by a material or heard in public,

shall be guilty of an offence under this Ordinance, and shall be liable, on conviction, to a fine not exceeding fifty pounds.

(2) For the purposes of the last preceding subsection, references to the transmission of a work or other subject-matter to subscribers to a diffusion service are references to the transmission thereof in the course of a service of distributing broadcast programmes, or other programmes (whether provided by the person operating the service or other persons), over wires, or other paths provided by a material substance to the premises of subscribers to the service; and for such purposes as aforesaid, where a work or other subject-matter is so transmitted—

(a) the person operating the service (that is to say, the person who, in the agreements with subscribers to the service, undertakes to provide them with the service, whether he is the person who transmits the programmes or not) shall be taken to be the person causing the work or other subject-matter to be so transmitted; and

(b) no person, other than the person operating the service, shall be taken to be causing it to be so transmitted, notwithstanding that he provides any facilities for the transmission of the programmes:

Provided that, for the purposes of this subsection, and of references to which this subsection applies, no account shall be taken of a service of distributing broadcast or other programmes, where the service is only incidental to a business of keeping or letting premises where persons reside or sleep, and is operated as part of the amenities provided exclusively or mainly for residents or inmates therein.

Penalization of making or having plates, etc., for making records in contravention of Ordinance

6. — If a person makes, or has in his possession, a plate or similar contrivance for the purpose of making records in contravention of this Ordinance, he shall be guilty of an offence under this Ordinance, and shall be liable, on conviction, to a fine not exceeding fifty pounds for each plate or similar contrivance in respect of which an offence is proved.

*Power of court to order destruction of records, etc.,
contravening Ordinance*

7. — The court before which any proceedings are taken under this Ordinance may, on conviction of the offender, order that all records, cinematograph films, plates or similar contrivances in the possession of the offender which appear to the court to have been made in contravention of this Ordinance, or to be adapted for the making of records in contravention of this Ordinance, and in respect of which the offender has been convicted, be destroyed or otherwise dealt with as the court may think fit.

Special defences

8. — Notwithstanding anything in the preceding provisions of this Ordinance, it shall be a defence to any proceedings under this Ordinance to satisfy the court before which any person is charged—

(a) that the record, cinematograph film, broadcast or transmission to which the proceedings relate was made only for the purpose of reporting current events; or

(b) that the inclusion of the performance in question in the record, cinematograph film, broadcast or transmission to which the proceedings relate was only by way of background or was otherwise only incidental to the principal matters comprised or represented in the record, film, broadcast or transmission.

Consent on behalf of performers

9. — Where, in any proceedings under this Ordinance, a court is satisfied—

(a) that the record, cinematograph film, broadcast or transmission to which the proceedings relate was made with the consent in writing of a person who, at the time of giving the consent, represented that he was authorised by the performers to give it on their behalf; and

(b) that the person making the record, film, broadcast or transmission had no reasonable grounds for believing that the person giving the consent was not so authorised;

the provisions of this Ordinance shall apply as if it had been shown that the performers had themselves consented in writing to the making of the record, film, broadcast or transmission.

Giving of consent without authority

10. — (1) Where—

(a) a record, cinematograph film, broadcast or transmission is made with the consent in writing of a person who, at the time of giving the consent, represented that he was authorised by the performers to give it on their behalf when to his knowledge he was not so authorized; and

(b) if proceedings were brought against the person to whom the consent was given, the consent would by virtue of section 9 of this Ordinance afford a defence to those proceedings, the person giving the consent shall be guilty of an offence under this Ordinance, and shall be liable, on conviction, to a fine not exceeding fifty pounds.

(2) Section 9 of this Ordinance shall not apply to proceedings under this section.

II

Copyright (Broadcasting of Gramophone Records) Act, 1972

(No. 25, of December 22, 1972)

An Act to clarify the law relating to copyright in connection with the broadcasting of gramophone records, etc.

Short title

1. — This Act may be cited as the Copyright (Broadcasting of Gramophone Records) Act, 1972.

Copyright in radio broadcasts of records, etc.

2. — Notwithstanding the provisions of any other written law —

(a) the manufacturers' and performers' copyright in a musical recording on gramophone records, tapes or

other mechanical contrivance, shall not be infringed if such a recording is broadcast, by means of radio or television, by the Fiji Broadcasting Commission;

(b) where a radio or television broadcast is made and a person by the reception of that broadcast causes a musical work or recording to be heard in public, he shall not thereby infringe the copyright in that musical work or recording.

UNITED KINGDOM

The Copyright (International Conventions) (Amendment No. 4) Order 1973

(No. 1089, of June 20, 1973, coming into force on July 17, 1973)

1. — (1) This Order may be cited as the Copyright (International Conventions) (Amendment No. 4) Order 1973, and shall come into operation on 17th July 1973.

(2) The Interpretation Act 1889 shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

2. — The Copyright (International Conventions) Order 1972¹ (hereinafter referred to as “the principal Order”), as amended², shall be further amended as follows:—

(a) in Schedule 1 (which names the countries of the Berne Copyright Union) Cameroon shall be indicated with an asterisk denoting that it is also party to the Universal Copyright Convention;

(b) in Schedule 3 (countries in whose case copyright in sound recordings includes the exclusive right of public performance and broadcasting) there shall be included a reference to Austria;

(c) in Schedules 4 and 5 (countries whose broadcasting organisations have copyright protection in relation to their sound and television broadcasts) there shall be included references to Austria and related references to 17th July 1973 in the list of dates in those two Schedules;

(d) in paragraph 3 of Schedule 7 (which sets out the modifications of Part III of the principal Order insofar as that Part is part of the law of Gibraltar) in the references in sub-paragraphs (a) and (b) thereof to the Federal Republic of Germany (and Land Berlin) for “(and Land Berlin)” shall be substituted “(and Berlin (West))”.

3. — Article 2(b) of the Copyright (International Conventions) (Amendment No. 2) Order 1973², so far as it

amends Schedules 4 and 5 to the principal Order, shall extend to Gibraltar and Bermuda.

4. — (1) This Order except for Article 2(c) and (d) and Article 3 shall extend to all the countries mentioned in the Schedule hereto.

(2) Article 2(c) shall extend to Gibraltar and Bermuda.

(3) Article 2(d) shall extend to Gibraltar.

SCHEDULE

Countries to which this Order extends

Bermuda	Isle of Man
Belize	Montserrat
Cayman Islands	Seychelles
Falkland Islands and its Dependencies	St. Helena and its Dependencies
Gibraltar	Virgin Islands
Hong Kong	

EXPLANATORY NOTE

(This Note is not part of the Order)

This Order further amends the Copyright (International Conventions) Order 1972. It takes account of—

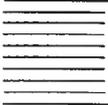
(a) the accession of Cameroon to the Universal Copyright Convention;

(b) the ratification by Austria of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations.

The Order extends, so far as is appropriate, to dependent countries of the Commonwealth to which the 1972 Order extends.

¹ See *Copyright*, 1972, p. 180.

² See *ibid.*, 1973, p. 109.



CORRESPONDENCE

**Letter from Italy**

by Valerio De SANCTIS *

List of Participants

I. Experts

1. Experts invited by the Director-General of Unesco

T. I. Adesalu, Nigeria (A. G. Adoh, Adviser). E. Alihonou, Congo. Mr. Bereau, Central African Republic. Mr. Biahngana-Nunga, Zaire. D. J. Coward, Kenya (G. Straschnov, Adviser). B. Dadié, Ivory Coast (A. Aggrey, F. Coulibaly, K. L. Liguier-Lauhhouet (Mrs.), V. Meite, M. Zogbo, Advisers). G. Harre, Zambia. P. Hountondji, Dahomey. A. Kanno, Ethiopia. M. Maceri, Burundi. H. Moollan, Mauritius. N. N'Diaye, Senegal (S. Kandji, Adviser). S. Ngoumou Manga, Cameroon. B. W. Prah, Ghana. G. Sidikon, Niger.

2. Other Experts

S. Ahada, Algeria. A. Chakroun, Morocco.

II. Observers

1. Intergovernmental Organization

African and Malagasy Industrial Property Office (OAMPI): P. N'Goma.

2. International Non-Governmental Organizations

African Copyright Office (BADA): Mr. Legros. European Broadcasting Union (EBU): G. Straschnov. International Confederation of Societies of

Authors and Composers (CISAC): J.-A. Ziegler, D. de Freitas, F. Sparta. International Federation of Film Producers Associations (FIAPF): M. Ferrara Santamaria. International Federation of the Phonographic Industry (IFPI): I. D. Thomas, N. Thuro, A. Holloway. International Literary and Artistic Association (ALAI): J.-A. Ziegler. International Publishers Association (IPA): A. Higo. International Writers Guild (IWG): J.-A. Ziegler. Union of National Radio and Television Organizations of Africa (URTNA): A. Chakroun.

III. World Intellectual Property Organization (WIPO)

A. Bogsch (*First Deputy Director General*); M. Stojanović (*Counsellor, Copyright Division*).

IV. Secretariat

United Nations Educational, Scientific and Cultural Organization (Unesco): D. de San (*Copyright Division*).

V. Officers

Chairman: B. Dadié (Ivory Coast). *Vice-Chairmen*: N. N'Diaye (Senegal); A. Kanno (Ethiopia). *Secretary*: D. de San (Unesco).

