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# Copyright

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# National Legislation

SRI LANKA

## Code of Intellectual Property Act

(No. 52 of 1979) \*

**An Act to revise, consolidate, amend and embody in the form of a Code the law relating to Copyright, Industrial Designs, Patents, Marks, Trade Names and Unfair Competition and provide for the better registration, control and administration thereof and for matters connected therewith or incidental thereto**

### *Short title and date of operation*

1. This Act may be cited as the Code of Intellectual Property Act, No. 52 of 1979 (hereinafter referred to as the "Code") and shall come into operation on such date as the Minister may appoint by Order published in the *Gazette* (in this Code referred to as the "appointed date").

"published works" means works published in any manner whatsoever with the consent of their authors provided that the number of copies so published are sufficient to satisfy the reasonable requirements of the public, having regard to the nature of the work;

"reproduction" means the making of one or more copies of a literary, artistic or scientific work, in any material form including any sound or visual recording;

"works first published" means works first published in Sri Lanka, or works first published abroad but also published in Sri Lanka within thirty days from the earlier publication;

"work of joint authorship" means a work created by two or more authors in collaboration, in which the individual contributions are indistinguishable from each other.

PART II  
Copyright

CHAPTER II

*Interpretation*

6. For the purposes of this Part—  
"broadcasting" means the transmitting, for reception by the general public, by wireless or by means of wire, of sounds or of images and sounds;  
"folklore" means all literary and artistic works created in Sri Lanka by various communities, passed on from generation to generation and constituting one of the basic elements of the traditional cultural heritage;  
"performance" means a public performance or delivery of a work by any means whatsoever;

*Works protected*

7. (1) Authors of original literary, artistic and scientific works shall be entitled to protection of their works under this Part.

(2) Literary, artistic and scientific works shall include in particular—

- (a) books, pamphlets and other writings;
- (b) lectures, addresses, sermons and other works of the same nature;
- (c) dramatic and dramatico-musical works;
- (d) musical works, whether or not they are in written form and whether or not they include accompanying words;
- (e) choreographic works and pantomimes;

\* Published in the *Gazette of the Democratic Socialist Republic of Sri Lanka*, of August 10, 1979, Supplement to Part II. Entry into force on January 2, 1980.

*Note:* The sections reproduced in this review are only those concerning copyright. The provisions omitted have been published in the review *Industrial Property*.

- (f) cinematographic, radiophonic and audio-visual works;
- (g) works of drawing, painting, architecture, sculpture, engraving, lithography and tapestry;
- (h) photographic works, including works expressed by processes analogous to photography;
- (i) works of applied art, whether handicraft or produced on an industrial scale;
- (j) illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

(3) Works shall be protected irrespective of their quality and the purpose for which they were created.

#### *Derivative works*

8. (1) The following shall also be protected as original works—

- (a) translations, adaptations, arrangements and other transformations of literary, artistic or scientific works;
- (b) collections of literary, artistic or scientific works, such as encyclopaedias and anthologies which, by reason of the selection and arrangement of their contents, constitute intellectual creations; and
- (c) works derived from Sri Lanka folklore.

(2) The protection of any work referred to in subsection (1) shall be without prejudice to any protection of a preexisting work utilized for the making of such work.

#### *Works not protected*

9. Notwithstanding the provisions of sections 7 and 8, protection shall not extend to—

- (a) laws and decisions of courts and administrative bodies, as well as to official translations thereof; and
- (b) news of the day published, broadcast or publicly communicated by any other means.

#### *Economic rights*

10. Subject to the provisions of sections 12 to 16 the author of a protected work shall have the exclusive right to do or authorize any other person to do the following acts in relation to the whole work or a part thereof—

- (a) reproduce the work;
- (b) make a translation, adaptation, arrangement, or other transformation of the work;
- (c) communicate the work to the public by performance, broadcasting, television or any other means.

#### *Moral rights*

11. (1) The author of a protected work shall have the right—

- (a) to claim authorship of his work, in particular that his authorship be indicated in connection with any of the acts referred to in section 10, except when the work is included incidentally or accidentally when reporting current events by means of broadcasting or television;
- (b) to object to, and to seek relief in connection with, any distortion, mutilation or other modification of, and any other derogatory action in relation to, his work, where such action would be or is prejudicial to his honour or reputation.

(2) The rights referred to in subsection (1) shall subsist for the life of the author and fifty years thereafter. After his death, the said rights shall be exercisable by his heirs.

(3) The rights referred to in subsection (1) shall be exercisable even where the author or his heirs do not have the rights referred to in section 10.

(4) The rights referred to in subsection (1) shall not be transferable.

#### *Works of Sri Lanka folklore*

12. (1) In the case of works of Sri Lanka folklore the rights referred to in sections 10 and 11(1) shall be exercised by the Minister in charge of the subject of Culture.

(2) Works of Sri Lanka folklore shall be protected by all means available under this Part, without limitation in time.

(3) Copies of works of Sri Lanka folklore made abroad and copies of translations, adaptations, arrangements, or other transformations of works of Sri Lanka folklore made abroad, without the authorization of the Minister in charge of the subject of Culture, shall be neither imported nor distributed.

#### *Fair use*

13. Notwithstanding the provisions of section 10, the following uses of a protected work, either in the original languages or in translation, shall be permissible without the author's consent—

- (a) in the case of any work that has been lawfully published—
  - (i) the reproduction, translation, adaptation, arrangement or other transformation of such work exclusively for the user's own personal and private use;

- (ii) the inclusion, subject to mention of the source and the name of the author, of quotations from such work in another work, provided that such quotations are compatible with fair practice and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries;
- (iii) the utilization of the work by way of illustration in publications, broadcasts or sound or visual recordings for teaching to the extent justified by the purpose, or the communication for teaching purposes of the work broadcast or televised for use in schools, education, universities and professional training:

Provided that such use is compatible with fair practice and that the source and the name of the author are mentioned in the publication, broadcast, television broadcast or recording;

- (b) in the case of any article published in newspapers or periodicals on current economic, political or religious topics, and in the case of any broadcast or televised work of the same character, the reproduction of such article or such work in the press, or the communication of it to the public, unless the said article when first published, or the said broadcast or televised work when broadcast or televised, was accompanied by an express condition prohibiting such use, and that the source of the work when used in the said manner is clearly indicated;
- (c) for the purposes of reporting on a current event by means of photography, cinematography or communication to the public, the reproduction or making available to the public, to the extent justified by the informatory purpose of any work that can be seen or heard in the course of the said current event;
- (d) the reproduction of works of art and of architecture in a film or television broadcast, and the communication to the public of the works so reproduced, if the said works are permanently located in a place where they can be viewed by the public or are included in the film or television broadcast only by way of background or as incidental to the essential matters represented;
- (e) the reproduction, by sound recording, photographic or similar process, by public libraries, non-commercial documentation centres, scientific institutions and educational establishments, of literary, artistic or scientific works which have already been lawfully made available to the public:

Provided that such reproduction and the number of copies made are limited to the needs of their activities, do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author;

- (f) the reproduction in the press of—
  - (i) any political speech delivered in public or any speech delivered during legal proceedings, or
  - (ii) any lecture, address, sermon or other work of the same nature delivered in public, provided that the use is exclusively for the purposes of current information,
 the author retaining the right to publish a collection of such works.

#### *Ephemeral recordings*

14. Notwithstanding the provisions of section 10, any broadcasting or television organization may make, for the purpose of its own broadcasts or television broadcasts and by means of its own facilities, an ephemeral recording, in one or several copies, of any work which it is authorized to broadcast or televise. All copies of such recording shall be destroyed within six months of the making thereof or within any longer period agreed to by the author:

Provided, however, that where such recording has an exceptional documentary character, one copy of it may be preserved in official archives, without prejudice to the application of the provisions of section 11.

#### *Limitation of right of translation*

15. Where any work has not been published in Sinhala or Tamil within ten years from its having been published for the first time in its original language, it shall be lawful to translate the said work into Sinhala or Tamil, as the case may be, and to publish such translation, even without the authorization of, and without any payment to, the owner of the copyright of the work, without prejudice to the application of the provisions of section 11.

#### *Limitation of right of sound recording and broadcasting*

16. (1) Where the owner of the copyright in a musical work has already authorized a person to make a sound recording of the performance of the work, any other person may, if he cannot agree with the owner to make a sound recording of a performance of the same work, make a new sound recording of a performance of the said work without the authorization of the owner, provided that such other

person pays to the owner an equitable remuneration which amount shall be fixed by the Secretary to the Ministry of the Minister in charge of the subject of Culture. The foregoing provisions shall apply also to any words accompanying the music.

(2) Where any public broadcasting or television organization operating in and from Sri Lanka cannot agree with the owner of the copyright in any work which it wishes to transmit by broadcasting or television on the conditions on which the work may be broadcast or televised, it shall be entitled to proceed to such broadcasting or television even without the authorization of the owner, provided that it pays to the owner an equitable remuneration which amount shall be fixed by the Secretary to the Ministry of the Minister in charge of the subject of Culture.

(3) The provisions of subsections (1) and (2) shall be without prejudice to the application of the provisions of section 11.

(4) The mode and manner of the assessment and payment of remuneration under subsections (1) and (2) shall be as prescribed.

#### *Ownership of copyright*

**17.** (1) The rights protected under this Part shall be owned in the first instance by the author or authors who created the work. The authors of a work of joint authorship shall be co-owners of the said rights.

(2) In the absence of proof to the contrary, the author of a work is the person under whose name the work is disclosed.

(3) In the case of a work created by an author for any person or body of persons corporate or unincorporate in the course of his employment under a contract of service, or of a work commissioned from the author by such person or body of persons, the rights mentioned in section 10 shall, in the absence of contractual provisions to the contrary, be deemed to be transferred to the employer or to the person commissioning the work.

#### *Transfer of copyright*

**18.** (1) The rights referred to in section 10 shall be transferable in whole or in part.

(2) Any transfer, other than by operation of law, of a right referred to in section 10 shall be in writing signed by the transferor.

(3) A transfer, in whole or in part of any right referred to in section 10, shall not include or be deemed to include the transfer of any other rights referred to therein.

(4) When a contract provides for the total transfer of one of the rights referred to in section 10, the scope of such contract shall be limited to the exercise of such rights as are provided for in the contract.

(5) The transfer of ownership of the only copy or of one or several copies of a work shall not imply or be deemed to imply the transfer of the copyright in the work.

#### *Duration of economic rights*

**19.** (1) Unless expressly provided otherwise in this Part, the rights referred to in section 10 shall be protected during the life of the author and for fifty years after his death.

(2) In the case of a work of joint authorship, the rights referred to in section 10 shall be protected during the life of the last surviving author and for fifty years after his death.

(3) In the case of a work published anonymously or under a pseudonym, the rights referred to in section 10 shall be protected until the expiration of fifty years from the date on which such work was first lawfully published:

Provided that where, before the expiration of the said period, the author or the author's identity is revealed or is no longer in doubt, the provisions of subsection (1) or subsection (2) shall apply as the case may be.

(4) In the case of a cinematographic, radiophonic or audiovisual work, the rights referred to in section 10 shall be protected until the expiration of fifty years from the making of the work or, if the work is made available to the public during such period with the consent of the author, fifty years from the date of its communication to the public.

(5) In the case of a photographic work or a work of applied art, the rights referred to in section 10 shall be protected until the expiration of twenty-five years from the making of the work.

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

#### *Sound recording*

**20.** (1) The lawful maker of any sound recording shall, for a period of fifty years from the first publication of the sound recording, have the exclusive right to reproduce or authorize the reproduction of the sound recording.

(2) The provisions of sections 14, 18, 19(6), and 21 shall apply to sound recordings.

*Infringements and sanctions*

21. (1) Any person who infringes any of the rights protected under this Part may be prohibited by injunction from continuing such infringement and may also be liable in damages.

(2) The provisions of Chapter XXXII relating to infringements shall apply, *mutatis mutandis*, to the rights protected under this Part.

*Fields of application*

22. This Part shall apply to—

- (a) works of authors who are nationals of, or have their habitual residence in, Sri Lanka; and
- (b) works first published in Sri Lanka, irrespective of the nationality or residence of their authors; and
- (c) all works which, by virtue of treaties entered into by Sri Lanka, are to be protected, as well as to works of Sri Lanka folklore.

*Abrogation of common law rights*

23. No copyright, or right in the nature of copyright, shall subsist otherwise than by virtue of this Part or of any other enactment made in that behalf.

*Rights under other laws*

24. The provisions of this Part shall not affect any rights hereinbefore acquired under the common law or any other law.

PART VI

Offences and Penalties

CHAPTER XXX

*Infringement of Copyright*

144. (1) Any person who wilfully infringes any of the rights protected under Part II of this Code shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding twenty thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment, and in the case of a second or subsequent conviction the above fine or term of imprisonment or both may be doubled.

(2) The Magistrate may, whether the alleged offender is convicted or not, order that all copies of the work and all implements used for the infringement, or all plates in the possession of the alleged offender, which appear to him to be infringing copies or plates for the purpose of making infringing copies, shall be destroyed or delivered up to the owner of the copyright, or otherwise dealt with as the Magistrate may think fit.

*Offences by bodies corporate*

153. Where an offence under this Code has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body or was obliged to act in any such capacity, shall be deemed to be guilty of such offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of the offence having regard to the nature of his functions in that capacity and to all the circumstances.

*Rules as to evidence*

161. In any prosecution for an offence under this Part—

- (a) an accused, and his wife or her husband, as the case may be, may, if the accused thinks fit, be called as a witness, and, if called, shall be sworn and examined, and may be cross-examined and re-examined in like manner as any other witness;
- (b) in the case of imported goods evidence of the port of shipment shall be prima facie evidence of the place or country in which the goods were made or produced.

*Punishment of accessories*

162. Any person who, being within Sri Lanka, abets the commission, outside Sri Lanka, of any act which, if committed within Sri Lanka, would under this Part be an offence, shall be deemed guilty of that offence, and be liable to be indicted, proceeded against, tried and convicted in any district or place in Sri Lanka in which he may be as if the offence had been there committed.

*Search warrant*

**163.** (1) Where, upon information of an offence under this part, a Magistrate has issued either a summons requiring the person charged by such information to appear to answer to the same, or a warrant for the arrest of such person, and either the said Magistrate on or after issuing the summons or warrant, or any other Magistrate, is satisfied by information on oath that there is reasonable cause to suspect that any goods or things by means of, or in relation to, which such offence has been committed are in any house or premises of the person charged by such information, or otherwise in his possession or under his control, in any place, such Magistrate may issue a warrant under his hand, by virtue of which it shall be lawful for any police officer, or other person named or referred to in the warrant, to enter such house, premises, or place at any reasonable time by day, and to search therefor and seize and take away such goods or things; and any goods or things seized under any such warrant shall be brought before a Magistrate's Court for the purpose of its being determined whether the same are or are not liable to forfeiture under this Part.

(2) If the owner of any goods or things which, if the owner thereof had been convicted, would be liable to forfeiture under this Part, is unknown or cannot be found, an information or complaint may be laid for the purpose only of enforcing such forfeiture, and a Magistrate's Court may cause notice to be advertised stating that, unless cause is shown to the contrary at the time and place named in the notice, such goods or things will be forfeited, and at such time and place the Court, unless the owner or any person on his behalf, or other person interested in the goods or things, shows sufficient cause to the contrary, may order such goods or things or any of them to be forfeited, and every such order shall be subject to appeal.

(3) Any goods or things forfeited under this section, or under any other provisions of this Part, may be destroyed or otherwise disposed of in such manner as the Court by which the same are forfeited may direct, and such Court may, out of any proceeds which may be realized by the disposition of such goods (all marks and trade descriptions being first obliterated), award to any innocent party any loss he may have innocently sustained in dealing with such goods.

*Costs of defence and of prosecution*

**164.** In any prosecution under this Part the Court may order costs to be paid to the accused by the prosecutor or to the prosecutor by the accused, having regard to the information given by, and the conduct of, the accused and prosecutor respectively, and the sum so awarded as costs shall be recoverable as if it were a fine.

*Limitation of prosecution*

**165.** No prosecution for an offence under this Part shall be commenced after the expiration of three years next after the commission of the offence or one year next after the first discovery thereof by the prosecutor, whichever expiration first happens.

*Savings*

**169.** (1) This Part shall not exempt any person from any action, suit, or other proceeding which might, but for the provisions of this Part, be brought against him.

(2) Nothing in this Part shall entitle any person to refuse to make a complete discovery, or to answer any question or interrogatory in any action, but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence under this Part.

(3) Nothing in this Part shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in Sri Lanka who bona fide acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master.

*Cognizable and bailable offences*

**170.** All offences under this Part are hereby declared to be "cognizable" and "bailable", within the meaning of those terms as defined in the Code of Criminal Procedure Act, No. 15 of 1979.

**PART VII**

**Miscellaneous**

**CHAPTER XXXI**

**Regulations**

*Regulations*

**171.** (1) The Minister may from time to time make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Code and in particular in respect of any matter required under this Code to be prescribed.

(2) Without prejudice to the generality of the powers conferred by subsection (1) the Minister may make regulations in respect of any or all of the following matters:—

- (a) the practice of registration;
- (b) the classification of goods and services for the purposes of registration;
- (c) the fees payable in respect of registration and other matters;
- (d) the forms to be used;
- (e) all matters which under Parts III, IV and V of this Code have been placed under the direction or control of the Registrar.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified therein.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the *Gazette* be brought before the Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the *Gazette*.

CHAPTER XXXIII

**Repeals and Savings**

*Copyright: Repeal of Chapter 154 and savings*

**187.** (1) The Copyright Ordinance (Chapter 154) is hereby repealed.

(2) The Copyright Act, 1911, of the Parliament of the United Kingdom or any provision therein contained shall have no application to any right or title acquired in any copyright after the appointed date.

(3) Notwithstanding the repeal of the aforesaid Ordinance every rule or regulation made thereunder, and under section 14 of the Copyright Act, 1911, of the Parliament of the United Kingdom, as is in force on the appointed date in so far as such rule or regulation is not inconsistent with the provisions of Part II of this Code shall be deemed to be a regulation made under this Code, and may be amended, or rescinded by regulations made under this Code.

*Additional savings*

**192.** Notwithstanding the repeal of the Acts and Ordinances referred to in sections 187 to 191—

- (2) every action, proceeding or other matter relating to copyright, industrial designs, patents and marks already instituted and pending under the provisions of the repealed Acts and Ordinances in any Court, original or appellate, on the appointed date shall be continued and proceeded without to final judgement, completion and execution under the provisions of the repealed Acts and Ordinances;

UNITED KINGDOM

**The Copyright (International Conventions) Order 1979**

(No. 1715, of December 19, 1979)

PART I

**Citation, commencement and interpretation**

1. This Order may be cited as the Copyright (International Conventions) Order 1979, and shall come into operation on 24<sup>th</sup> January 1980.

2. In this Order—

“the Act” means the Copyright Act 1956; and

“material time” means—

- (i) in relation to an unpublished work or subject-matter, the time at which such work or subject-matter was made, or, if the making thereof extended over a period, a substantial part of that period;
- (ii) in relation to a published work or subject-matter, the time of first publication.

## PART II

**Protection for literary, dramatic,  
musical and artistic works, sound recordings,  
cinematograph films and published editions**

3. Subject to the following provisions of this Order, the provisions of Parts I and II of the Act (except section 14) and all the other provisions of the Act relevant to those Parts shall in the case of any country mentioned in Schedules 1 or 2 hereto apply—

- (a) in relation to literary, dramatic, musical or artistic works, sound recordings, cinematograph films or published editions first published in that country, as they apply to such works, recordings, films or editions first published in the United Kingdom;
- (b) in relation to persons who at any material time are citizens or subjects of, or domiciled or resident in, that country, as they apply to persons who at such time are British subjects or domiciled or resident in the United Kingdom; and
- (c) in relation to bodies incorporated under the laws of that country, as they apply to bodies incorporated under the laws of any part of the United Kingdom.

4. — (1) Subject to the following provisions of this Article, the relevant provisions of Schedule 7 to the Act shall have effect in relation to any work or other subject-matter in which copyright subsists by virtue of this Part of this Order as if for any references therein to the commencement of the Act or any of its provisions or to the date of the repeal of any provision of the Copyright Act 1911 or of any other enactment there were substituted references to 27<sup>th</sup> September 1957 (being the date on which the Copyright (International Conventions) Order 1957 came into operation).

(2) Subject to the following provisions of this Article, in the case of any country mentioned in Schedule 2 hereto in relation to which a date is specified in that Schedule—

- (a) paragraph (1) of this Article shall have effect as if for the reference to 27<sup>th</sup> September 1957 there were substituted that date (if different); and
  - (b) copyright shall not subsist by virtue of this Part of this Order in any work or other subject-matter by reason only of its publication in such a country before the date so specified.
- (3) This Article shall not apply—
- (a) in the case of Ghana, Kenya, Malawi, Mauritius, Nigeria or Zambia; or
  - (b) to any work or subject-matter first published in the United States of America if immediately before 27<sup>th</sup> September 1957 copyright under the Copyright Act 1911 subsisted in such work or subject-matter by virtue of either an Order

in Council dated 9<sup>th</sup> February 1920 regulating copyright relations with the United States of America or the Copyright (United States of America) Order 1942.

5. The acts restricted by section 12 of the Act as applied by this Part of this Order shall not include —

- (a) causing the recording to be heard in public; or
- (b) broadcasting the recording;

except in the case of the countries mentioned in Schedule 3 to this Order.

6. Where any person has before the commencement of this Order incurred any expenditure or liability in connection with the reproduction or performance of any work or other subject-matter in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the making of this Order, have been lawful, nothing in this Part of this Order shall diminish or prejudice any right or interest arising from or in connection with such action which is subsisting and valuable immediately before the commencement of this Order unless the person who by virtue of this Part of this Order becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

7. Nothing in the provisions of the Act as applied by this Part of this Order shall be construed as reviving any right to make, or restrain the making of, or any right in respect of, translations, if such right has ceased before the commencement of this Order.

## PART III

**Protection in respect of broadcasts**

8. The provisions of section 14 of the Act, so far as they relate to sound broadcasts and all the other provisions of the Act relevant thereto other than section 40(3), shall apply, in the case of each of the countries mentioned in Schedule 4 to this Order, in relation to sound broadcasts made from places in any such country by an organisation constituted in, or under the laws of, the country in which the broadcast is made as they apply in relation to sound broadcasts made from places in the United Kingdom by the British Broadcasting Corporation; so, however, that paragraphs 17 and 18 of Schedule 7 to the Act shall have effect as if for the references therein to the commencement of section 14 there were substituted references to the relevant date set out in the said Schedule 4 (being the date on which the provisions of section 14 of the Act so far as they relate to sound broadcasts were first applied in the case of that country).

9. The provisions of section 14 of the Act, so far as they relate to television broadcasts, and all the other provisions of the Act relevant thereto, other than section 37(4), section 40(3) and Schedule 5, shall apply, in the case of each of the countries mentioned in Schedule 5 to this Order, in relation to television broadcasts made from places in any such country by an organisation constituted in, or under the laws of, the country in which the broadcast was made as they apply in relation to television broadcasts made from places in the United Kingdom by the British Broadcasting Corporation or the Independent Broadcasting Authority; so, however, that—

- (a) section 24(3)(c) of the Act shall have effect as if for the reference to the Corporation or the Authority or any organisation appointed by them there were substituted a reference to any owner or prospective owner of copyright in television broadcasts; and
- (b) paragraphs 17 and 18 of Schedule 7 to the Act shall have effect as if for the references therein to the commencement of section 14 there were substituted references to the relevant date set out in Schedule 5 to this Order (being the date on which the provisions of section 14 of the Act so far as they relate to television broadcasts were first applied in the case of that country).

#### PART IV

##### Extensions and revocations

10. Parts I and II of this Order shall extend to the countries mentioned in Schedule 6 to this Order subject to the modifications mentioned in that Schedule and Part III shall extend to Gibraltar and Bermuda subject to the modifications mentioned in Schedule 7 to this Order.

11. The Orders mentioned in Schedule 8 to this Order are hereby revoked insofar as they form part of the law of the United Kingdom or any country mentioned in Schedule 6 to this Order.

#### SCHEDULE 1

##### Countries of the Berne Copyright Union

*(The countries indicated with an asterisk are also party to the Universal Copyright Convention)*

Arab Republic of Egypt	Brazil *
Argentina *	Bulgaria *
Australia *	Cameroon *
(and Norfolk Island)	Canada *
Austria *	Central African Empire
Bahamas *	Chad
Belgium *	Chile *
Benin	Congo (People's Republic)

Costa Rica *	Mexico *
Cyprus	Monaco *
Czechoslovakia *	Morocco *
Denmark *	Netherlands * (and Netherlands Antilles)
Fiji *	New Zealand *
Finland *	Niger
France (and French territories overseas) *	Norway *
Gabon	Pakistan *
German Democratic Republic	Philippines *
(and Berlin (East)) *	Poland *
Federal Republic of Germany	Portugal * (including Portuguese provinces overseas)
(and Berlin (West)) *	Romania
Greece *	Senegal *
Hungary *	South Africa
Iceland *	(and South West Africa)
India *	Spain * (and its Colonies)
Republic of Ireland *	Sri Lanka
Israel *	Surinam
Italy *	Sweden *
Ivory Coast	Switzerland *
Japan *	Thailand
Lebanon *	Togo
Libya	Tunisia *
Liechtenstein *	Turkey
Luxembourg *	Upper Volta
Madagascar	Uruguay
Mali	Vatican City *
Malta *	Yugoslavia *
Mauritania	Zaire

#### SCHEDULE 2

##### Countries party to the Universal Copyright Convention but not Members of the Berne Union

Algeria	31st October 1973
Andorra	27th September 1957
Bangladesh	5th August 1975
Colombia	18th June 1976
Cuba	27th September 1957
Ecuador	27th September 1957
El Salvador	21st June 1979
Ghana	—
Guatemala	28th October 1964
Haiti	27th September 1957
Kampuchea	27th September 1957
Kenya	—
Laos	27th September 1957
Liberia	27th September 1957
Malawi	—
Mauritius	—
Nicaragua	16th August 1961
Nigeria	—
Panama	17th October 1962
Paraguay	11th March 1962
Peru	16th October 1963
Union of Soviet Socialist Republics	27th May 1973
United States of America (and Guam, Panama Canal Zone, Puerto Rico and the Virgin Islands of the United States of America)	27th September 1957
Venezuela	18th November 1966
Zambia	—

## SCHEDULE 3

**Countries in whose case Copyright  
in Sound Recordings includes Exclusive Right  
to Perform in Public and to Broadcast**

Australia	India
Austria	Republic of Ireland
Brazil	Israel
Chile	Italy
Colombia	Mexico
Costa Rica	New Zealand
Cyprus	Nigeria
Czechoslovakia	Norway
Denmark	Pakistan
Ecuador	Paraguay
El Salvador	Spain
Federal Republic of Germany (and Berlin (West))	Sri Lanka
Fiji	Sweden
Guatemala	Switzerland
	Uruguay

Czechoslovakia	14th August 1964
Denmark	1st February 1962
Ecuador	21st May 1964
El Salvador	24th January 1980
Federal Republic of Germany (and Berlin (West))	18th November 1966
Fiji	31st May 1972
France	1st July 1961
Guatemala	14th January 1977
Republic of Ireland	24th January 1980
Italy	8th April 1975
Luxembourg	18th March 1976
Mexico	21st May 1964
Niger	21st May 1964
Norway	10th August 1968
Paraguay	26th February 1970
Spain	19th November 1971
Sweden	1st July 1961
Uruguay	24th August 1977

## SCHEDULE 4

**Countries whose Organisations are Protected  
in Relation to Sound Broadcasts**

Austria	17th July 1973
Brazil	5th November 1965
Chile	5th September 1974
Colombia	17th September 1976
Congo (People's Republic)	21st May 1964
Costa Rica	19th November 1971
Czechoslovakia	14th August 1964
Denmark	1st July 1965
Ecuador	21st May 1964
El Salvador	24th January 1980
Federal Republic of Germany (and Berlin (West))	18th November 1966
Fiji	31st May 1972
Guatemala	14th January 1977
Republic of Ireland	24th January 1980
Italy	8th April 1975
Luxembourg	18th March 1976
Mexico	21st May 1964
Niger	21st May 1964
Norway	23rd August 1978
Paraguay	26th February 1970
Sweden	21st May 1964
Uruguay	24th August 1977

## SCHEDULE 5

**Countries whose Organisations are Protected  
in Relation to Television Broadcasts**

Austria	17th July 1973
Belgium	8th March 1968
Brazil	5th November 1965
Chile	5th September 1974
Colombia	17th September 1976
Congo (People's Republic)	21st May 1964
Costa Rica	19th November 1971
Cyprus	5th May 1970

## SCHEDULE 6

**Countries to which Parts I and II of this Order extend**

Belize	16th October 1966
Bermuda	6th December 1962
British Virgin Islands	11th February 1963
Cayman Islands	4th June 1966
Falkland Islands and its Dependencies	10th October 1963
Gibraltar	1st October 1960
Hong Kong	12th December 1972
Isle of Man	31st May 1959
Montserrat	5th March 1966
St. Helena and its Dependencies	10th October 1963

*Modifications to this Order as extended*

1. Article 3 shall have effect as part of the law of any country to which it extends as if for references to the United Kingdom there were substituted references to the country in question.

2. Article 4 shall have effect as part of the law of any country to which it extends as if in paragraphs (1) and (3) there were substituted for "27th September 1957" the date indicated in relation to that country in the preceding provisions of this Schedule (being the date when the Act was first extended to that country).

3. Schedule 2 to this Order shall have effect as part of the law of any such country as if for any date in that Schedule which is earlier than the date mentioned in this Schedule in relation to the relevant country there were substituted that later date.

## SCHEDULE 7

**Modifications of Part III of, and Schedules 4 and 5 to,  
this Order in its Extension to Bermuda and Gibraltar**

1. (a) In Article 8 the words "other than section 40(3)" shall be omitted;
- (b) in Article 9 the words "other than section 37(4), section 40(3) and Schedule 5" shall be omitted.

- 2. Insofar as Part III is part of the law of Bermuda—
  - (a) in Schedule 4 to this Order the date mentioned in the second column shall be altered to 23<sup>rd</sup> August 1969 in relation to Brazil, Congo (People’s Republic), Czechoslovakia, Denmark, Ecuador, Federal Republic of Germany (and Berlin (West)), Mexico, Niger and Sweden;
  - (b) in Schedule 5 the names of Belgium, Cyprus, France, Norway and Spain shall be omitted; and
  - (c) the date mentioned in the second column shall be altered to 23<sup>rd</sup> August 1969 in relation to Brazil, Congo (People’s Republic), Czechoslovakia, Denmark, Ecuador, Federal Republic of Germany (and Berlin (West)), Mexico, Niger and Sweden.
- 3. Insofar as Part III is part of the law of Gibraltar—
  - (a) in Schedule 4 to this Order the date mentioned in the second column shall be altered to 28<sup>th</sup> October 1966 in relation to Brazil, Congo (People’s Republic), Czechoslovakia, Denmark, Ecuador, Mexico, Niger and Sweden;
  - (b) in Schedule 5 the date mentioned in the second column shall be altered to 28<sup>th</sup> October 1966 in relation to Brazil, Congo (People’s Republic), Czechoslovakia, Denmark, Ecuador, France, Mexico, Niger and Sweden.

- The Copyright (International Conventions) (Amendment) Order 1974
- The Copyright (International Conventions) (Amendment) Order 1975
- The Copyright (International Conventions) (Amendment No. 2) Order 1975
- The Copyright (International Conventions) (Amendment No. 3) Order 1975
- The Copyright (International Conventions) (Amendment) Order 1976
- The Copyright (International Conventions) (Amendment No. 2) Order 1976
- The Copyright (International Conventions) (Amendment No. 3) Order 1976
- The Copyright (International Conventions) (Amendment) Order 1977
- The Copyright (International Conventions) (Amendment No. 2) Order 1977
- The Copyright (International Conventions) (Amendment No. 3) Order 1977
- The Copyright (International Conventions) (Amendment No. 4) Order 1977
- The Copyright (International Conventions) (Amendment) Order 1978
- The Copyright (International Conventions) (Amendment) Order 1979

SCHEDULE 8

Orders Revoked

- The Copyright (International Conventions) Order 1972
- The Copyright (International Conventions) (Amendment) Order 1973
- The Copyright (International Conventions) (Amendment No. 2) Order 1973
- The Copyright (International Conventions) (Amendment No. 3) Order 1973
- The Copyright (International Conventions) (Amendment No. 4) Order 1973
- The Copyright (International Conventions) (Amendment No. 5) Order 1973

EXPLANATORY NOTE

*(This Note is not part of the Order)*

This Order supersedes with amendments the Orders mentioned in Schedule 8 (being Orders providing for the protection in the United Kingdom and the countries to which the Copyright Act 1956 has been extended of works and other subject-matter originating in other countries party to international copyright conventions).

The amendments take account of the accession of El Salvador and the Republic of Ireland to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations.

## General Studies

### **Recent Judicial Developments in the Copyright Law of the United States of America**

Ronald S. KADDEN \*































## **Correspondence**

### **Letter from the Philippines**

#### **Important Features of Presidential Decree No. 49**

José Maria DIAZ \*







## **International Activities**

### **Council of Europe**

#### **Committee of Experts on Legal Protection in the Media Field**

(Strasbourg, May 5 to 8, 1980)

The Committee of Experts on Legal Protection in the Media Field (hereinafter referred to as “the Committee”), which among the bodies of the Council of Europe is placed under the statutory authority of the Committee on the Mass Media, from which latter it derives its terms of reference, met in Strasbourg from May 5 to 8, 1980.

Experts designated by the Governments of the following 17 Council of Europe member States took part in the work of the Committee: Austria, Belgium, Cyprus, Denmark, France, Germany (Federal Republic of), Greece, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom. WIPO was represented in

an observer capacity by Mr. Claude Masouyé, Director, Public Information and Copyright Department. The International Labour Office (ILO), Unesco and a certain number of interested international non-governmental organizations had also delegated observers.

The meeting was opened on behalf of the Secretary General of the Council of Europe by Mr. E. Harremoes, Director of Legal Affairs. The Secretariat of the Committee was provided by Mr. F. W. Hondius, Head of the Public Law Division, as Mr. H. P. Furrer, the previous Secretary of the Committee, had been appointed to the post of Secretary to the Committee of Ministers.

The Committee proceeded to elect its new officers. Mr. André Kerever, Conseiller d'Etat, Paris (France), was elected Chairman; Mr. Robert Dittrich, Director, Federal Ministry of Justice, Vienna (Austria), and Mr. Willi Weincke, Head of Department, Ministry of Cultural Affairs, Copenhagen (Denmark), were elected Vice-Chairmen.

The present terms of reference of the Committee are:

- (a) to continue preparing the revision of the European Agreement on the Protection of Television Broadcasts of 1960, as supplemented by its 1965 Protocol and its 1974 Additional Protocol, with particular reference to distribution of those broadcasts by cable;
- (b) to consider the problems raised by cable distribution of television broadcasts with regard to the protection of copyright and neighboring rights other than those of broadcasting organizations, with due attention to the possibilities offered by collective management of the rights involved;
- (c) to hold an exchange of views and information on the prospects for ratification of the Rome Convention (1961), the Phonograms Convention (1971), the Satellites Convention (1974) and the 1965 European Agreement for the Prevention of Broadcasts Transmitted from Stations Outside National Territories;
- (d) to consider possible action that might be taken on reprographic reproduction and the public lending right in libraries.

The Committee devoted the greater part of its discussions to consideration of all the legal problems raised by cable distribution. For that purpose it had at its disposal the replies of governments and international non-governmental organizations to a detailed questionnaire drawn up by its Secretariat following studies made by the previous Committee.<sup>1</sup> The preparatory documentation submitted to it also included a comparative study drawn up by the International

Bureau of WIPO on the legislation of member States of the Council of Europe in relation to the possible application of Article 11<sup>bis</sup> of the Berne Convention on the subject concerned. The Committee's attention was also drawn to the conclusions of a Group of Independent Experts convened by WIPO and Unesco in Geneva from March 10 to 13, 1980,<sup>2</sup> in order to draw up general principles whereby solutions might be found to the legal problems involved. On the latter point, the Committee noted with interest that the International Bureau of WIPO and the Secretariat of Unesco were going to prepare drafts of model legislative provisions implementing the general principles worked out by the Group of Experts, taking due account of the complexity of the circumstances in which cable distribution could take place.

The Committee considered in general that the practical application of the rights recognized by international instruments should if possible be effected by contractual means within the framework of collective management of those rights. In that respect, the Committee noted with satisfaction the steps already taken by copyright holders. Certain members of the Committee did not however intend to rule out the necessity of resorting to non-voluntary license systems or mixed solutions. In any event, the Committee found that, in the field of cable distribution, it was not possible at the present juncture to harmonize the legal rules for the application of the international conventions. Consequently, it considered that it had to observe the progress of the efforts currently being made to devise contractual solutions in the context of collective management of the rights, and to resume consideration of the problem in the light of such developments as might have occurred in that area, and also in the light of the work on the drafting of model legislative provisions.

With regard to the possible revision of the 1960 European Agreement and its Protocols, the Committee also postponed consideration of the matter to its next meeting. It did the same with the proposal to change the deadline date of January 1, 1985, beyond which a State could not remain party to the Agreement if it was not party to the Rome Convention.

The Committee then had an exchange of views and information, from which it transpired that in several countries the question of the acceptance, by ratification or accession, of the Rome Convention, the Phonograms Convention and/or the Satellites Convention was currently under consideration by the competent authorities.

Finally, the Committee considered the problems raised by reprography, and expressed concern at these in view of the growing use of the technical process for the reproduction of works. The drafting of a special European Agreement within the terms of Article 20 of the Berne Convention was considered. The Committee decided to go into the question in greater

<sup>1</sup> See *Copyright*, 1979, p. 89.

<sup>2</sup> *Ibid.*, 1980, pp. 154 *et seq.*

detail at its next meeting, on the basis of a document that would be prepared by its Secretariat, which would report on measures already taken or contemplated by member States of the Council of Europe. The Committee also agreed to return later to the question of the public lending right in libraries, which

comprised the recognition of the right of creators to payment for their works when they were lent publicly.

The next meeting of the Committee will take place in the spring of 1981, on a date that will be specified in due course.

## Obituary

### Ricardo Tiscornia

1907—1980

An eminent copyright personality has left us: Ricardo Tiscornia, Director General of Copyright of the Argentine Republic, passed away on April 24, 1980, in Buenos Aires. His fame had long since extended beyond the frontiers of his own country and many lawyers specialized in intellectual property had had the opportunity, in the course of international meetings, to appreciate his intelligence and knowledge.

Ricardo Tiscornia was born on March 24, 1907, in Buenos Aires. His first professional activities were in university teaching. In particular, he was Professor of Philosophy and History and held the Chair of Bar Practice for Young Lawyers in the Faculty of Law and Social Sciences. The greater part of his life, however, was devoted to copyright. From 1956 onwards he headed the Directorate General of Copyright (previously the National Register of Intellectual Property). In that post, he carried out a series of administrative reforms which were to make copyright protection more effective and took an active part in preparing for the revision of the Argentine Copyright Law.

He represented his country on many occasions in international meetings, particularly the 1961 Rome Diplomatic Conference (he signed the Rome Convention on behalf of Argentina), in many sessions of the Intergovernmental Copyright Committees and in a number of expert groups convened as a part of the preparations for the 1971 revisions of the Berne Convention and the Universal Copyright Convention. Finally, at the end of his life and despite already uncertain health, he insisted on chairing the Regional Copyright Seminar for Latin American and Caribbean Countries convened by WIPO and Unesco in Buenos Aires in November 1979.

Ricardo Tiscornia leaves behind him the memory of a well-liked man whose overriding interest was the safeguarding of copyright. There is no doubt that his many friends and admirers in Argentina will feel the gap left by his passing away.

C. MASOUYÉ

## Calendar

### WIPO Meetings

(Not all WIPO meetings are listed. Dates are subject to possible changes.)

#### 1980

September 8 to 12 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning

September 22 to 26 (Geneva) — Governing Bodies (WIPO Coordination Committee; Assemblies of the Paris, PCT, TRT and Budapest Unions; Conference of Representatives of the Paris Union; Executive Committees of the Paris and Berne Unions)

October 6 to 10 (Geneva) — Locarno Union — Committee of Experts

- October 14 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries**
- October 20 to 24 (Geneva) — Permanent Committee on Patent Information (PCPI)**
- November 17 to 21 (Geneva) — Berne Union and Universal Copyright Convention — Working Group on the overall problems posed for developing countries concerning access to works protected under copyright conventions (convened jointly with Unesco)**
- November 24 to December 5 (Geneva) — Nice Union — Committee of Experts**
- December 1 to 3 (Lomé) — Development Cooperation — African Regional Seminar on Copyright (convened jointly with Unesco)**
- December 4 and 5 (Lomé) — Development Cooperation — African Regional Seminar on Neighboring Rights (convened jointly with ILO and Unesco)**
- December 8 to 12 (Geneva) — International Patent Classification (IPC) — Committee of Experts**
- December 15 to 19 (Paris) — Berne Union — Committee of Governmental Experts on Problems Arising from the Use of Computers (convened jointly with Unesco)**

## UPOV Meetings

### 1980

- August 26 to 28 (Hanover) — Technical Working Party for Forest Trees**
- September 16 to 18 (Lund) — Technical Working Party for Ornamental Plants**
- September 23 to 25 (Lund) — Technical Working Party for Vegetables**
- October 14 (Geneva) — Consultative Committee**
- October 15 to 17 (Geneva) — Council**
- November 10 to 12 (Geneva) — Technical Committee**
- November 13 and 14 (Geneva) — Administrative and Legal Committee**

## Other Meetings in the Field of Copyright and/or Neighboring Rights

### Non-Governmental Organizations

#### 1980

- International Federation of Library Associations and Institutions (IFLA)**  
Congress — August 18 to 23 (Manila)
- International Federation of Actors (FIA)**  
Executive Committee — September 22 to 24 (London)
- International Federation of Producers of Phonograms and Videograms (IFPI)**  
Council — October 13 to 15 (New Delhi)
- International Confederation of Societies of Authors and Composers (CISAC)**  
Congress — November 3 to 7 (Dakar)

#### 1981

- International Confederation of Societies of Authors and Composers (CISAC)**  
Legal and Legislation Committee — April 27 to 29 (Sidney)
- International Federation of Translators (FIT)**  
Congress — May 6 to 13 (Warsaw)
- Internationale Gesellschaft für Urheberrecht (INTERGU)**  
Congress — September 21 to 25 (Ottawa)