

Copyright Ordinance*

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Whereas, by an order of His Majesty in Council, dated March 21, 1924, the provisions of an act of the imperial parliament of Great Britain, known as the Copyright Act, 1911, were extended to Palestine, and by proclamation of the High Commissioner dated April 23, 1924, the said act has been brought into force in Palestine as from March 21, 1924; and whereas it is desirable to make provision for certain matters incidental to the application of the said act; be it enacted by the High Commissioner for Palestine with the advice of the Advisory Council thereof:

Short Title

1. This ordinance may be cited as the Copyright Ordinance.

Applicability of Copyright Act to Importation of Copyright Works into Israel

2. For purposes of the application of section 14 of the Copyright Act, 1911, to the importation into Israel of copies of works made outside Israel—

(a) the Director of the Customs and Excise Department (hereafter: Director) shall perform the duties and may exercise the powers thereby imposed on or given to the Commissioners of Customs and Excise in the United Kingdom;

(b) regulations to be made by the Director under that section shall require the approval of the Government;

(c) regulations made under that section may provide that notice given to the Commissioners of Customs and Excise in the U.K. and communicated by them to the Director, shall be deemed to have been given by the owner of the copyright to the Director;

(d) that section shall have effect as if it were part of the customs law in effect in Israel from time to time.

Protection of Computer Software

2A. For purposes of copyright, computer software shall be treated like a literary work, within the meaning of that term in the Copyright Law, 1911.

Offenses

3.—(1) If a person knowingly does one of the following, then he shall be liable to three years imprisonment and to a fine seven times the fine prescribed in section 61(a)(4) of the Penal Law 5737—1977:

- (a) he makes an infringing copy of a work subject to copyright in order to sell or rent it;
- (b) he sells, or rents, or displays or offers for sale or rent in a commercial manner makes for sale or hire an infringing copy of such a work;
- (c) he distributes infringing copies of such a work for business purposes or to an extent damaging to the owner of the copyright;
- (d) he publicly exhibits for commercial purposes infringing copies of such a work;
- (e) imports to Israel for sale or rental any infringing copy of such work;
- (f) makes or has in his possession any plate for the purpose of making infringing copies of any work in which copyright subsists or—for purposes of personal gain—causes the public presentation of any work under copyright without the consent of the owner of the copyright.

(2) Repealed

(3) The Court before which such proceedings are held may, whether the alleged offender is convicted or not, order that all copies of the work and all plates in the possession of the alleged offender, which the Court finds to be infringing copies, be destroyed or delivered to the owner of the copyright or otherwise dealt with, as the Court shall order.

(4) A criminal action under this section shall first be brought in a Magistrate's Court.

(5) The provisions of article 241 of the Ottoman Penal Law shall not apply to any matter to which this section applies.

(6) Nothing in this section shall prejudice the right of the owner of a copyright to use any means which the Law gives him—either by way of civil action for damages or in any other manner—for the infringement of a copyright.

Compensation Without Proof of Damage

3A. If the damage caused by a copyright infringement has not been proven, then the Court may, on the application of the plaintiff, award in respect of every infringement compensation in an amount of not less than NS 10,000 and not more than NS 20,000; the Minister of Justice may, with the approval of the Knesset Constitution, Legislation and Justice Committee, change the said amounts.

Definitions

3B. In sections 3C to 3F—

“copyright”—within its meaning in section 1(2) of the Copyright Law 1911;

“performers’ right”—within its meaning in the Performers’ Rights Law 5744—1984;

“royalties company”—each of the following:

(1) a body corporate that represents a majority of copyright owners;

(2) a body corporate that represents a majority of owners of performers’ rights;

(3) a body corporate that represents a majority of audio producers and a body corporate that represents a majority of video producers jointly, which were approved for purposes of this Law by the Minister of Education, Culture and Sport;

“recording”—preservation of a performance by any means that makes it possible to see, hear or copy the work;

“recordable media”—a device on which there is no recording and on which an audio or video recording can be recorded, other than a device intended for use in a computer;

“copying”—copying a recording or a substantial part of it.

Private and Domestic Use

3C. Recording or copying a work on recordable media for private and domestic, but not commercial, uses shall not be a violation of copyright and performers’ rights.

Payment to Owners of Copyright and Performers’ Rights

3D.—(a) The Government shall compensate the copyright owners and the owners of performers’ rights for the loss of income and violation of rights caused to them by the recording and copying for private and domestic use under section 3C.

(b) The Government shall transmit to the royalties companies every year an amount equal to 5% of the retail price without VAT of all cassettes sold in Israel for private and domestic use during the preceding year.

(c) The amount said in subsection (b) shall be divided equally between the three royalties companies enumerated in paragraphs (1), (2) and (3) of section 3B.

(d) A committee composed of a representative of the Minister of Finance, a representative of the Minister of Finance and a representative of the Minister of Education, Culture and Sport shall prescribe the data required for determination of the said amount.

Division of Royalties

3E. In the case of disagreement on the division of royalties, the Court shall decide the matter; to the Court hearings shall be summoned, in ways to be prescribed by regulations, representatives of the royalties companies, a representative of the Ministry of Education, Culture and Sport and the author or performer, in respect of whose royalties there is disagreement, as the case may be; the Court’s decision shall bind all royalties companies and all holders of copyright and performers’ rights, even if they were not parties to the proceeding before the Court.

Loan or Rental

3F. A loan or rental for commercial purposes of recording media on which a work or a substantive part thereof is recorded is copyright within its meaning in the Copyright Act.

Regulations

3G. The Minister of Education, Culture and Sport may, in consultation with the Minister of Justice, make regulations for the implementation of this Ordinance.

Copyright in Case of Unpublished Work

4. In the case of an unpublished work, the author shall be entitled to copyright to it if, when he wrote the work, he was an Israel citizen or an Israel resident.

Moral Right

4A.—(a) The author has the right to have his name stated with his work, to an extent and degree customary.

(b) The author is entitled that no falsification, damage or other change be made on his work, or that no other act be performed that denigrates that work in a manner liable to injure its author's honor or reputation.

(c) The infringement of a right under this section is a civil wrong and the provisions of the Civil Wrongs Ordinance (New Version) shall apply to it.

(4) The author's right under this section shall be independent of his material right in the work and it shall be in effect even after all or part of that right has been transferred to another.

(5) In an action under this section, the author shall be entitled to compensation in an amount to be determined by the Court according to the circumstances of the case, even if no pecuniary damage was proven; these provisions shall not derogate from any other power of the Court under Chapter Five of the Civil Wrongs Ordinance (New Version).

Period of Copyright Protection

5.—(1) The copyright of anonymous and pseudonymous works shall be protected for 70 years after the date of their publication; however, if the author of an anonymous work discloses his identity during the said period or if the pseudonym adopted by the author leaves no doubt on his identity, then the period of protection shall be as said in section 3 of the Copyright Act, 1911, as modified by this Ordinance.

(2) In respect of the joint work of several authors—

(i) the period during which the copyright shall be protected after the death of an author shall begin with the death of the last surviving author;

(ii) wherever this ordinance and the Copyright Act, 1911, refers to the date of an author's death, read the date of the last surviving author's death.

(3) Protection subsequent to the death of an author or to the publication of a work shall be in effect as of the date of death or of publication, but its period under the Law shall be counted from January 1 of the year after the death or after the publication.

(4) Notwithstanding any provision in section 3 of the Copyright Act, 1911, and subject to the other express provisions in that act, protection after the author's death shall be 70 years from the date stated in subsection (3).

Protection of Foreign Works

6. If a convention was signed between Israel and another state on the matter of copyright protection or if Israel acceded to a convention on this matter, then the Minister of Justice may, by order published in *Reshumot*, order that the works for which that convention requires protection in Israel shall be protected according to the provisions of the order; the protection afforded a said work shall not be greater than that which would have been afforded to that work, had it first been published in Israel, if it was published, or, had the author been an Israel citizen when he wrote it, if it was not published; however, an order may provide for greater protection than this, if it so was agreed in the convention, but not greater than as agreed.

First Publication of Work

7.—(1) If a work was published in several countries within 30 days after its first publication, then it shall be deemed to have been published simultaneously in all of them.

(2) If a work was published simultaneously in Israel and in other countries, then shall be deemed to have been first published in Israel; however, a said work shall not be deemed to have been published in Israel, if publication in Israel was for the sake of appearance only.

Permission to Use Copyrighted Material for Purposes of Educational Broadcasts

7A.—(a) For purposes of this section—

“broadcast”—a radio broadcast and a television broadcast;

“incidental use of work”—use of a work or of a part of it which is of minor importance for the subject of the broadcast, as background or as a connecting element or for the illustration or concretization of the subject of the broadcast.

(b) The following shall not be deemed infringements of the copyright in a work—

(1) incidental use of a copyrighted literary, dramatic, musical or artistic work for inclusion in a broadcast addressed to schools as part of a curriculum;

(2) the broadcast of a work used as aforesaid;

(3) the visual or auditory public performance—mainly to pupils for purposes of school activities—of a work used as aforesaid.

(c) The copyright holder in a work which was used as said in subsection (b) shall for such use be entitled to royalties from the broadcaster at a rate set by agreement between them or—if there is no agreement—at the rate to be set by a committee said in subsection (d); however, the committee may refrain from requiring the broadcaster to pay royalties if, in its opinion, the use of the work is inconsiderable to the point where it does not affect the author's right to royalties for the use of his work.

(d) The Minister of Justice shall appoint a committee of three for purposes of subsection (c), including a judge of the District Court who shall be chairman of the committee and two members, of whom one at least shall be a representative of the public.

(e) When the committee is about to set royalties under subsection (c), it shall give the parties a suitable opportunity to present their arguments and to produce evidence before it, at the times and in the manner and form prescribed by regulations.

(f) The committee shall hear an application by a broadcaster to set royalties under subsection (c), only if he first proposed an agreement to a representative organization of authors of works of the type of the work in question and if he did not reach an agreement with on the amount of the royalties to be paid.

(g) The committee shall be competent—

- (1) to demand any written or oral evidence which it may deem necessary;
- (2) to summon any person to appear before it to testify or to produce any document in his possession, to question him and to demand from him any document in his possession;
- (3) to compel attendance of a person who without satisfactory justification did not complied with a summons, order him to pay all expenses caused by his noncompliance or by compelling his attendance and fine him an amount not more than IL 75;
- (4) to require a witness to testify under oath or affirmation in a manner customary in Court;
- (5) to fine an amount of not more than IL 75 a person who, having been required to give testify on oath or affirmation or to submit a document, refuses to do so without reasonable justification, on condition that no person be required to answer a question which he would not have to answer in Court and that he not be fined for refusing to answer such a question;
- (6) to admit any written or oral evidence, even if it would not be admissible in civil or criminal trials;
- (7) to award to a person summoned to a committee hearing an amount of money which, in the committee's opinion, he expended in consequence of his appearance;
- (8) to order that all or part of the amount of royalties not in dispute be paid before the final decision in the matter.

(h) Permission to use a work under subsection (b) shall not constitute permission to use it in a manner and form likely to damage the author's good name or reputation as an artist or author.

(i) The Minister of Justice shall, in consultation with the Minister of Education, appoint a committee which shall advise the broadcaster on all matters that relate to the incidental use of copyrighted material under subsection (b), and which may also make rules for categories of use that in its opinion constitute incidental use; the committee shall consist of five persons, including at least three public representatives from among authors of the category of works of which incidental use is made; one of the three shall be chairman of the committee.

(j) The committee established under subsection (i) shall prescribe its own order of business, shall be competent to summon any person to appear before it and shall consult with any person.

(k) Recommendations by the committee under subsection (i) shall not be used by the Court or by the committee established under subsection (d) as evidence in any proceeding before it.

(1) This section shall not apply to any works or to any category of incidental use, on which agreement was reached by the parties.

Modification of Copyright Act 1911

8. The Copyright Act 1911, shall be read as modified or added to by this Ordinance.

* The date of the consolidated text is not known.