

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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WORLD INTELLECTUAL PROPERTY ORGANIZATION

Post of Director General of WIPO

In view of the retirement of the Director General of WIPO, Professor G. H. C. Bodenhausen, the General Assembly of WIPO is expected to appoint a new Director General when it meets in November 1973.

Governments of Member States of WIPO, the Paris Union or the Berne Union may present candidatures not later than July 31, 1973.

Copies of the relevant announcement to the Ministries of Foreign Affairs may be obtained from the Head, Administrative Division, WIPO, 32, chemin des Colombettes, Geneva, Switzerland.

BERNE UNION

AUSTRIA

**Ratification of the Stockholm Act of the Berne Convention
(with the exception of Articles 1 to 21 and of the Protocol Regarding Developing Countries)**

The Director General of the World Intellectual Property Organization (WIPO) has notified the Governments of member countries of the Berne Union that the Government of the Republic of Austria deposited on May 11, 1973, its instrument of ratification dated April 13, 1973, of the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Stockholm on July 14, 1967, with the declaration provided for in Article 28(1)(b)(i) of the said Act to the effect that the ratification shall not apply to Articles 1 to 21 and to the Protocol Regarding Developing Countries.

Pursuant to the provisions of Article 28(2)(c) of the Stockholm Act of the said Convention, Articles 22 to 38 will enter into force, with respect to the Republic of Austria, three months after the date of this notification, that is, on August 18, 1973.

A separate notification will be made on the entry into force of the other provisions of the Stockholm Act of the said Convention, when the required number of ratifications or accessions is reached.

Berne Notification No. 44, of May 18, 1973.

NATIONAL LEGISLATION

GERMANY (Federal Republic of)

I

Law amending the Copyright Act

(Of November 10, 1972) *

Article 1. — The Copyright Act of September 9, 1965¹ (*Bundesgesetzblatt*, Part I, p. 1273), last amended by the Law revising the Powers to charge Costs, of June 23, 1970² (*Bundesgesetzblatt*, Part I, p. 805), is hereby amended as follows:

1. — Article 26 is amended to read as follows:

“Droit de suite

Article 26. — (1) Should the original of an artistic work be resold and should such resale involve an art dealer or auctioneer as purchaser, vendor or agent, the vendor shall pay the author a participation at the rate of five percent of the sale price. There shall be no such obligation if the sale price is less than one hundred German marks.

(2) The author may not in advance waive his right to the participation. The expectancy thereof shall not be the subject of judicial execution; any disposition of the expectancy shall be without legal effect.

(3) The author may request information of an art dealer or auctioneer as to what originals of the author's works have been resold through the intermediary of the art dealer or auctioneer during the last calendar year having elapsed prior to the request for information.

(4) The author may, in so far as this is necessary for the carrying through of his claim on the seller, request from the art dealer or auctioneer information on the name and address of the said seller and the amount of the sale price. The art dealer or auctioneer may refuse information on the name and address of the seller if he pays the participation due to the author.

(5) The claims under paragraphs (3) and (4) may only be asserted through a collecting society.

(6) Where there exists reasonable doubt as to the accuracy or completeness of the information provided in accordance with paragraph (3) or (4), the collecting society may demand that access to the account books or

to other documents be granted, at the choice of the party obliged to provide the information, either to the collecting society or to a chartered accountant or sworn auditor designated by the said party, to the extent that this is necessary to ascertain the accuracy or completeness of the information. Where the information is found to be inaccurate or incomplete, the party obliged to provide the information shall pay the cost of the examination.

(7) The claims of the author shall expire after ten years.

(8) The foregoing provisions shall not apply to architectural works and works of applied art.”

2. — Article 27 is amended to read as follows:

“The hiring and lending of copies

Article 27. — (1) For the hiring and lending of copies of a work in respect of which further distribution is permitted under Article 17(2), an equitable remuneration shall be paid to the author if the hiring or lending is executed for the financial gain of the hirer or lender, or if the copies are hired or lent through an institution accessible to the public (bookstore, record library or collection of other copies). The claim for remuneration may only be asserted through a collecting society.

(2) The provisions of paragraph (1) shall not be applicable where the work is published exclusively for hiring or lending purposes, or if the copies are lent under a contract of service or a contract commissioning services, for use solely in the fulfilment of commitments arising in connection with the said service or commission.”

3. — Article 46 is amended as follows:

(a) After paragraph (3), the following new paragraph (4) is added:

“ (4) The author shall be paid an equitable remuneration for the reproduction and distribution.”

(b) The former paragraph (4) becomes paragraph (5).

4. — In Article 62(4), third sentence, after the word “ modification”, the words “ and if in the notification of the modification his attention has been drawn to this legal consequence” are added.

* *Gesetz zur Änderung des Urheberrechtsgesetzes, vom 10. November 1972*, published in *Bundesgesetzblatt*, I, p. 2081, No. 120, of November 15, 1972. — WIPO translation.

¹ See *Copyright*, 1965, pp. 251 et seq.

² See below.

5. — After Article 135, the following provision is inserted as Article 135a:

“Calculation of the term of protection

Article 135a. — Where the duration of protection is shortened by the application of this Act to a right which came into being prior to the entry into force thereof, and where the event which under this Act determines the beginning of the term of protection occurred prior to the entry into force thereof, the said term shall be calculated as from the said entry into force, provided that protection shall lapse not later than on expiration of the term of protection under the earlier provisions.”

Article 2. — Where, in the cases specified in Article 135a of the Copyright Act, a right is infringed prior to Novem-

ber 15, 1971, which right was still protected under the said provision at the time of its infringement, Article 101 of the Copyright Act shall apply, provided that the infringer shall not be authorized to indemnify the injured party in money when a redress in cash is not acceptable to such party.

Article 3. — In accordance with Article 13(1) of the Third Transitional Act, of January 4, 1952 (*Bundesgesetzblatt*, Part I, p. 1), this Law shall also apply in *Land Berlin*.

Article 4. — (1) Article 1(3) shall enter into force with effect from October 11, 1971, and Article 1(5) shall enter into force with effect from January 1, 1966.

(2) With respect to the remaining provisions, this Law shall enter into force on January 1, 1973.

II

Law revising the Powers to charge Costs and Social Security and Other Provisions (Law revising the Powers to charge Costs)

(Of June 23, 1970) *

.....
Copyright Provisions (Copyright Act, Act dealing with the Administration of Copyright and Related Rights)

Article 9. — (1) Paragraph (5) of Article 138 of the Act dealing with Copyright and Related Rights (Copyright Act) of September 9, 1965¹ (*Bundesgesetzblatt*, Part I, p. 1273), is amended to read as follows:

“ (5) The Federal Minister for Justice shall be authorized to issue by way of an ordinance

1. provisions on the form of the application and on the maintenance of the Register of Authors;
2. provisions for the imposition of charges (fees and expenses) to cover administrative costs relating to the entry, the issuing of a certificate of entry and the issuing of other extracts or their certification, as well as provisions concerning the party liable for costs, the time at which charges are due, the obligation of payment in advance, exemption from charges, limitation, the procedure for the fixing of charges, and legal remedies against the fixing of charges. The fee for registration shall not exceed 30 German marks.”

(2) Paragraph (7) of Article 14 of the Act dealing with the Administration of Copyright and Related Rights of

September 9, 1965² (*Bundesgesetzblatt*, Part I, p. 1294), is amended to read as follows:

“ (7) The Federal Minister for Justice shall have the power to determine by ordinance the procedure to be followed before the Arbitration Commission, and in particular

1. to issue detailed provisions on the remuneration of members of the Arbitration Commission for their activities;
2. to determine the charges (fees and expenses) to be imposed by the supervisory authority for proceedings before the Arbitration Commission, to cover administrative costs; the fee shall not exceed the sum of 300 German marks;
3. to issue provisions concerning the party liable for costs, the time at which charges are due, the obligation of payment in advance, exemption from charges, limitation, the procedure for the fixing of charges, and legal remedies against the fixing of charges.”

.....
Entry into force

Article 34. — (1) This Law shall enter into force on the day following its promulgation, unless otherwise provided in paragraph (3) of this Article.

.....
² *Ibid.*, p. 268 et seq.

* *Gesetz zur Änderung von Kostenermächtigungen, sozialversicherungsrechtlichen und anderen Vorschriften (Kostenermächtigungs-Änderungsgesetz)*, vom 23. Juni 1970, published in *Bundesgesetzblatt*, I, pp. 808 et seq., No. 58, of June 25, 1970. — WIPO translation.

¹ See *Copyright*, 1965, p. 251 et seq.

III

First Law for the Reform of Penal Law

(Of June 25, 1969) *

IV. Amendment of Laws in the Field of Civil Law
and Penal Law

Copyright Act

Article 56. — Article 111 of the Copyright Act of September 9, 1965 (*Bundesgesetzblatt*, Part I, p. 1273), is amended as follows:

- (a) paragraph (2) is deleted;
- (b) the former paragraph (3) becomes paragraph (2).

X. Abrogation of Provisions

Article 85. — The following provisions are hereby abrogated:

* *Erstes Gesetz zur Reform des Strafrechts (1.StrRG)*, vom 25. Juni 1969, published in *Bundesgesetzblatt*, I, No. 52, of June 30, 1969. — WIPO translation.

7. Paragraph (2) of Article 33 of the Act concerning Copyright in Works of Art and Photography, of January 9, 1907 (*Reichsgesetzblatt*, p. 7), last amended by the Copyright Act of September 9, 1965 (*Bundesgesetzblatt*, Part I, p. 1273);

Final Clauses

Entry into force

Article 105. — The following shall apply to the entry into force of this Law:

- 2. the remaining provisions of this Law shall enter into force on April 1, 1970.

IV

Regulation amending the Regulation on the Register of Authors

(Of June 26, 1970) *

By virtue of Article 138(5) of the Copyright Act of September 9, 1965¹ (*Bundesgesetzblatt*, Part I, p. 1273), last amended by the Law revising the Powers to charge Costs, of June 23, 1970² (*Bundesgesetzblatt*, Part I, p. 805), it is hereby enacted:

Article 1. — Article 5 of the Regulation on the Register of Authors, of December 18, 1965³ (*Bundesgesetzblatt*, Part I, p. 2105), which, under Article 3, Section II, No. 2, and Article 9(1), second sentence, of the Law revising the Powers to charge Costs and transferring the Provisions on Fees, of July 22, 1969 (*Bundesgesetzblatt*, Part I, p. 901), is abrogated as of July 1, 1970, is replaced by the following provision:

“Charges

Article 5. — (1) The following fees shall be charged for the entry in the Register of Authors:

- 1. For one work 20 German marks
- 2. For several works in respect of which the entry is applied for simultaneously,

- (a) for the first work 20 German marks
- (b) for the second to the tenth work, per work 10 German marks
- (c) for the eleventh and all subsequent works, per work 5 German marks

(2) The Regulation on Administrative Costs charged by the German Patent Office, of June 26, 1970 (*Bundesgesetzblatt*, Part I, p. 835), shall be applied accordingly to the collection of fees for the issuing of a certificate of entry and to the issuing of other extracts and their certification. The same is valid for the procedure when the fees under paragraph (1) are collected.

(3) The party liable for costs may appeal against a decision of the Patent Office under Article 9(2) of the Regulation on Administrative Costs charged by the German Patent Office by petitioning for a decision by the courts within two weeks following communication of the contested decision. The petition shall be filed with the Patent Office; the latter may assist in the drafting of the application. The court competent under Article 138(2), second sentence, of the Copyright Act shall rule on the petition.”

* *Verordnung zur Änderung der Verordnung über die Urheberrolle*, vom 26. Juni 1970, published in *Bundesgesetzblatt*, I, p. 839, No. 59, of June 26, 1970. — WIPO translation.

¹ See *Copyright*, 1965, p. 267.

² See above.

³ See *Copyright*, 1967, p. 53.

Article 2. — In accordance with Article 14 of the Third Transitional Act, of January 4, 1952 (*Bundesgesetzblatt*, Part I, p. 1), in conjunction with Article 142 of the Copyright Act and Article 33 of the Law revising the Powers to charge

Costs, this Regulation shall also apply in *Land Berlin*.

Article 3. — This Regulation shall enter into force on July 1, 1970.

UNITED KINGDOM

The Copyright (Hong Kong) Order 1972

(No. 1724, of November 14, 1972, coming into force on December 12, 1972)

1. — This Order may be cited as the Copyright (Hong Kong) Order 1972 and shall come into operation on 12th December 1972.

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

3. — The provisions of the Copyright Act 1956 specified in Part I of Schedule 1 hereto shall extend to Hong Kong subject to the modifications specified in Part II of that Schedule.

4. — The Copyright (International Organisations) Order 1957, as amended, the Copyright (Broadcasting Organisations) Order 1961, and the Copyright (International Conventions) Order 1972 (being Orders in Council made under Part V of the said Act) shall extend to Hong Kong subject, in the case of the last mentioned Order, to the modifications specified in Schedule 2 hereto.

SCHEDULE 1

PART I

Provisions of the Copyright Act 1956 extended to Hong Kong

All the provisions of the Act, as amended by the Performers' Protection Acts 1958 and 1963, the Films Act 1960 and the Design Copyright Act 1968, except sections 23 to 30, 32, 34, 35, 42 and 44 and Schedules 4, 5 and 9.

PART II

Modifications of the provisions extended

General Modifications

1. In sections 7, 8 (11) and 15 (4), for references to the Board of Trade there shall be substituted references to the Governor in Council.

2. In sections 8 (1) and 8 (10), 10 (2) and (3), 12 (6), 21 (1) and 21 (6), 22 (2) and 22 (3), 43, 48 (4) and 49 (2) and paragraph 46 of Schedule 7, for "the United Kingdom" there shall be substituted "Hong Kong".

Particular Modifications

3. The provisions mentioned in the first column in the following table shall be modified in the manner specified in the second column.

Provision	Modification
Section 8	In subsections (2) and (4), for "three-farthings" there shall be substituted "five cents" and in subsection (2), for "farthing" there shall be substituted "cent"; for subsection (3) there shall be substituted the following:— " (3) If at any time by an order made under this section in its operation in the law of the United Kingdom any different rate of, or minimum amount of, royalty is prescribed either generally or in relation to any one or more classes of records, the provisions of this section shall be construed subject to the provisions of any such order as is for the time being in force, provided that any reference in such an order to any sum of money shall be construed as a reference to the equivalent amount in the currency of legal tender in Hong Kong as provided by any law of Hong Kong."; in subsection (4)(a), all the words after the first reference to works shall be omitted.
Section 10	For subsection (5) there shall be substituted the following:— " (5) For the purpose of this section a design shall be taken as being applied industrially if it is applied in the circumstances for the time being prescribed by rules made under this section and section 36 of the Registered Designs Act 1949 as extended by this section in the law of the United Kingdom."
Section 13	For subsection (3) there shall be substituted the following:— " (3) Copyright subsisting in a cinematograph film by virtue of this section shall continue to subsist until the film is published and thereafter until the end of the period of fifty years from the end of the calendar year which includes the date of its first publication and shall then expire, or, if copyright subsists in the film by virtue only of the last preceding subsection, it shall continue to subsist as from the date of first publication until the end of the period of fifty years from the end of the calendar year which includes that date and shall then expire."; in subsection (8), for "any such film as is mentioned in paragraph (a) of subsection (1) of section 38 of the Films Act 1960 (which relates to newsreels)" there shall be substituted "any film consisting wholly or mainly of photographs which, at the time they were taken, were means of communicating news"; subsection (11) shall be omitted.

Provision	Modification	Provision	Modification
Section 17	Subsection (6) shall be omitted.	Section 40	Subsection (3) shall be omitted;
Section 18	In subsection (1), for the proviso there shall be substituted the following:— “ Provided that if by virtue of section 5 of the Limitation Ordinance (Chapter 347) (which relates to limitation in cases of successive conversion and extinction of title of the owner of converted goods), the title of the owner of the copyright to such a copy or plate would (if he had then been the owner of the copy or plate) have been extinguished at the end of the period mentioned in that section, he shall not be entitled to any rights or remedies under this subsection in respect of any thing done in relation to that copy or plate after the end of that period.”; subsection (4) shall be omitted.		in subsection (4), for “ either of the two last preceding subsections ” there shall be substituted “ the last preceding subsection ”, and “ or the programme to be transmitted, as the case may be ” shall be omitted; in subsection (5), the reference to a work shall be omitted.
Section 21	In subsections (7) and (8), for the words “ forty shillings ” and “ fifty pounds ” there shall be substituted respectively “ five hundred dollars ” and “ fifty thousand dollars ” and for the words “ two months ” there shall be substituted “ twelve months ”; subsection (10) shall be omitted.	Section 41	In subsection (7), for the definition of “ school ” there shall be substituted “ ‘ school ’ has the same meaning as in the Education Ordinance (Chapter 279) ”.
Section 22	In subsection (1), for the “ Commissioners of Customs and Excise (in this section referred to as “ the Commissioners ”)” there shall be substituted “ the Director of Commerce and Industry ” and, subject to the modifications to subsection (4) hereinafter provided, for subsequent references to the said Commissioners there shall be substituted references to the said Director; in subsection (4) for “ the Commissioners ” where those words first occur there shall be substituted “ the Governor in Council ” and for “ the Commissioners consider ” there shall be substituted “ the Governor in Council considers ”; subsection (6) shall be omitted; for subsection (7) there shall be substituted the following:— “ (7) Where by virtue of this section the importation into Hong Kong of any copy of a work to which the section applies is prohibited, the importation into Hong Kong of such a copy shall, for the purposes only of the provisions of the Import and Export Ordinance (Chapter 60) providing for forfeiture, be deemed to be a contravention of that Ordinance.”	Section 46	Subsection (1) shall be omitted; in subsection (2), “ (including any enactment of the Parliament of Northern Ireland) ” shall be omitted.
Section 31	Subsections (1) and (2) shall be omitted; in subsection (4), for “ the United Kingdom ” there shall be substituted “ Hong Kong ” and for “ in a country ” there shall be substituted “ in the United Kingdom or in any country other than Hong Kong ”.	Section 47	The whole section except subsection (4) shall be omitted; in subsection (4), “ or rules ” shall be omitted.
Section 33	For subsection (1) there shall be substituted the following:— “ (1) An organisation to which this section applies is one declared to be such by an Order in Council made under this section as part of the law of the United Kingdom which has been extended, in relation to that organisation, to Hong Kong ”.	Section 50	For subsection (2) there shall be substituted the following:— “ (2) Subject to the transitional provisions the Copyright Act 1911 and the Copyright Order Confirmation (Mechanical Instruments: Royalties) Act 1928 are hereby repealed.”
Section 37	Subsection (4) shall be omitted.	Section 51	For subsection (2) there shall be substituted the following:— “ (2) (a) Any provision of this Act empowering the Governor in Council to make regulations shall come into operation on the commencement of the Order in Council extending that provision to Hong Kong. (b) All the other provisions of this Act shall come into operation on 1st January 1973.”; subsection (3) shall be omitted.
Section 39	In subsection (8), for “ section three of the Crown Proceedings Act, 1947 ” there shall be substituted “ section 5 of the Crown Proceedings Ordinance (Chapter 300) ”.	Schedule 1	In paragraph 2, for “ section seven of the Act of 1949 ” there shall be substituted “ section 2 of the United Kingdom Designs (Protection) Ordinance (Chapter 44) ”.
		Schedule 7	Paragraphs 25, 26, 40 and 41 shall be omitted.

SCHEDULE 2

Modifications of the Copyright (International Conventions) Order 1972:—

(i) Articles 4 (other than paragraph (2)(b)) and 8 to 11 together with Schedules 4 to 7 shall be omitted.

(ii) In Article 3, for “ any part of the United Kingdom ” there shall be substituted “ Hong Kong ”.

(iii) In Schedule 2 the following dates shall be inserted respectively in the second column in relation to the countries mentioned in the following tables —

Ghana	22nd August 1962
Kenya	7th September 1962
Malawi	26th October 1965
Mauritius	12th March 1968
Nigeria	14th February 1962
Zambia	1st June 1965

EXPLANATORY NOTE

(This Note is not part of the Order)

This Order extends the provisions of the Copyright Act 1956 with certain exceptions and modifications to form part of the law of Hong Kong.

The Order also extends three Orders in Council made under Part V of that Act. The extension of these Orders will

give protection in Hong Kong to works originating in countries party to International Copyright Conventions, to works produced by certain international organisations and to lawfully authorised broadcasts originating in other Commonwealth countries to which the 1956 Act has already been extended.

Broadcasts by Hong Kong organisations will also have protection in Hong Kong and in those countries by virtue of this Order.

The copyright protection given by the law of Hong Kong will be similar to that by the law of the United Kingdom.



CORRESPONDENCE

Letter from the Federal Republic of Germany

By Adolf DIETZ *

(First Part)

CONVENTIONS NOT ADMINISTERED BY WIPO

Universal Copyright Convention

SOVIET UNION

Accession to the Convention of September 6, 1952

In a letter dated April 19, 1973, the United Nations Educational, Scientific and Cultural Organization (Unesco) informed us that the instrument of accession by the Union of Soviet Socialist Republics to the Universal Copyright Convention (1952) was deposited with that Organization on February 27, 1973.

In accordance with its Article IX(2), the Convention will come into force for the Union of Soviet Socialist Republics on May 27, 1973, that is, three months after the deposit of the instrument of accession.

The instrument of accession contains the following:

“In acceding to the Universal (Geneva) Copyright Convention of 1952, the Union of Soviet Socialist Republics declares that the provisions of Article XIII of the Convention are outdated and are contrary to the Declaration of the General Assembly of the United Nations on the granting of independence to colonial countries and peoples (resolution 1514 (XV), December 14, 1960), which proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations.”

CAMEROON

Accession to the Convention as revised at Paris on July 24, 1971

In a letter dated April 11, 1973, the United Nations Educational, Scientific and Cultural Organization (Unesco) informed us that the instrument of accession by Cameroon to the Universal Copyright Convention as revised at Paris on July 24, 1971, was deposited with that Organization on February 1, 1973.

Cameroon is thus the fifth State to deposit its instrument of ratification or acceptance of, or accession to, the Convention.

In accordance with the provisions of Article IX(1), the Convention will enter into force three months after the deposit of twelve instruments of ratification, acceptance or accession.

According to Article IX(3) of the Convention, the accession by Cameroon to the said Convention also constitutes accession to the Convention of September 6, 1952. In accordance with Article IX(2) of the Convention of 1952, this Convention came into force, for Cameroon, on May 1, 1973.

UPOV Meetings

- June 5 to 7, 1973 (Avignon) — Technical Working Party for Vegetables
June 13 and 14, 1973 (Lund) — Technical Working Party for Ornamental Plants
June 21 and 22, 1973 (Geneva) — Fee Harmonization Working Party
October 9, 1973 (Geneva) — Consultative Working Committee
October 10 to 12, 1973 (Geneva) — Council

Meetings of Other International Organizations concerned with Intellectual Property

- June 25 to 27, 1973 (Rijswijk) — International Patent Institute — Administrative Council
June 26 to July 7, 1973 (Washington) — Organization of American States — Committee of Governmental Experts on Industrial Property and Technology Applied to Development
September 10 to 14, 1973 (Stockholm) — International Federation of Actors — Congress
September 10 to October 6, 1973 (Munich) — Munich Diplomatic Conference for the Setting Up of a European System for the Grant of Patents, 1973
September 24 to 28, 1973 (Budapest) — International Association for the Protection of Industrial Property -- Symposium
October 28 to November 3, 1973 (Jerusalem) — International Writers Guild — Congress
December 10 to 14, 1973 (Brussels) — European Economic Community — “Community Patent” Working Party
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