

THE COPYRIGHT ACT, 1957

ACT NO. 14 OF 1957 AN ACT TO AMEND AND CONSOLIDATE THE LAW
RELATING TO COPYR
IGHT.

[4th June, 1957.]

BE it enacted by Parliament in the Eighth Year of the Republic of
India as follows:-

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PRELIMINARY

CHAPTER I

PRELIMINARY

1.

Short title, extent and commencement.

1. (1) Short title, extent and commencement. This Act may be
called the Copyright Act, 1957.

(2) It extends to the whole of India.

(3) It shall come into force on such 1 date as the Central
Government may, by notification in the Official Gazette, appoint.

2.

Interpretation.

2. Interpretation. In this Act, unless the context otherwise
requires,-

(a) adaptation " means,-

(i) in relation to a dramatic work, the conversion of
the work into a non-dramatic work;

(ii) in relation to a literary work or an artistic work,
the conversion of the work into a dramatic work by way
of performance in public or otherwise;

(iii) in relation to a literary or dramatic work, any

abridgement of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical ; and

(iv) in relation to a musical work, any arrangement or transcription of the work ;

(b) " architectural work of art " means any building or structure having an artistic character or design, or any model such building or structure

(C) " artistic work " means-

(i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan,), an engraving or a photograph, whether or not any such work possesses artistic quality

1 21st January, 1958, vide Notification No. S. R. O. 269, dated the 21st January, 1958, see Gazette of India, Extraordinary, Pt. II, sec. 3, p. 167.

2 Extended to and brought into force in the State of Sikkim w.e.f. 27.4.1979 vide Notifn. No. S.O. 226(K) dt. 27.4.1979, Gaz. of India, Exty., Pt. II, See 3(110, P. 430.

Extended to and brought into force in Dadra and Nagar Haveli (w.e.f. 1.7.65) by Reg. 6 of 1963., S.2 & Sch. I.

Extended to Goa, Daman and Diu with modifications, by Reg. 12 of 1962, s.3 and Sch.

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(ii) an architectural work of art ; and

(iii) any other work of artistic craftsmanship

(d) author " means,-

(i) in relation to a literary or dramatic work, the author of the work ;

(ii) in relation to a musical work, the composer ;

(iii) in relation to an artistic work other than a photograph, the artist ;

(iv) in relation to a photograph, the person taking the photograph ;

(v) in relation to a cinematograph film, the owner of the film at the time of its completion ; and

(vi) in relation to a record, the owner of the original plate from which the record is made, at the time of the making of the plate ;

(dd) "broadcast means communication to the public-
(i) by any means of wireless diffusion, whether in any one or more of the forms of signs, sounds or visual images; or

(ii) by wire, and includes a re-broadcast;

(e) "calendar year" means the year commencing on the 1st day of January;

(f) "cinematograph film" includes the sound track, if any, and "cinematograph" shall be construed as including any work produced by any process analogous to cinematography;

Explanation.--For the purposes of this clause, "video films" shall also be deemed to be work produced by a process analogous to cinematography.

(ff) "communication to the public" means communication to the public in whatever manner, including communication through satellite;

(g) "delivery", in relation to a lecture, include delivery by means of any mechanical instrument or by broadcast.

(h) "dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise but does not include a cinematograph film;

(hh) "duplicating equipment" means any mechanical contrivance or device used or intended to be used for making copies of any work;

(i) "engravings" include etchings, lithographs, woodcuts, prints and other similar works, not being photographs ;

(j) "exclusive licence" means a licence which confers on the licensee or on the licensee and persons authorised by him, to the exclusion of all other persons (including the owner of the copyright), any right comprised in the copyright in a work, and "exclusive licensee" shall be construed accordingly;

(k) "Government work" means a work which is made or published by or under the direction or control of--

(i) the Government or any department of the Government;

1 Subs. by Act 23 of 1993, s.2 (w.e.f. 9.8.1984)

2 Ins. by s.3 ibid. (w.e.f. 9.8.1984)

3 Ins. by Act 65 of 1984, s.2 (w.e.f. 8.10.84)

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(ii) any Legislature in India ;

(iii) any court, tribunal or other judicial authority in India;

(l) "Indian work" means a literary, dramatic or musical work,-

(i) the author of which is a citizen of India; or

(ii) which is first published in India; or

(iii) the author of which, in the case of an unpublished work, is at the time of the making of the work, a citizen of India;

(m) infringing copy " means,-

(i) in relation to a literary, dramatic, musical or artistic work, a reproduction thereof otherwise than in the form of a cinematograph film;

(ii) in relation to a cinematograph film, a copy of the film or a record embodying the recording in any part of the sound track associated with the film;

(iii) in relation to a record, any such record embodying the same recording ; and

(iv) in relation to a programme in which a broadcast reproduction right subsists under section 37, a record recording the programme,

if such reproduction, copy or record is made or imported in contravention of the provisions of this Act

(n) " lecture " includes address, speech and sermon

(o) " literary work " includes tables compilations and computer programmes, that is to say, programmes recorded on any disc, tape, perforated media or other information storage device, which , if fed into or located in a computer or

computer based equipment is capable of reproducing any information;

(p) " musical work " means any combination of melody and harmony or either of them, printed, reduced to writing or otherwise graphically produced or reproduced;

(q) " performance " includes any mode of visual or acoustic presentation, including any such presentation by the exhibition of a cinematograph film, or by means of broadcast or by the use of a record, or by any other means and, in relation to a lecture, includes the delivery of such lecture ;

(r) "performing rights society " means a society, association or other body, whether incorporated or not, which carries on business in India of issuing or granting licences for the performance in India of any works in which copyright subsists;

(s) "photograph " includes photo-lithograph and any work produced by any process analogous to photography but does not include any part of a cinematograph film;

1 Subs. by Act 23 of 1983, s.2 (w.e.f. 9.8.1984)

2 Subs. by s.3, ibid. (w.e.f. 9.8.1984)

3 Subs. by Act 65 of 1984, s.2 (w.e.f.8.10.1984)

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(t) "plate " includes any stereotype or other plate, stone, block, mould, matrix, transfer, negative duplicating equipment or other device used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records for the acoustic presentation of the work are or are intended to be made ;

(u) prescribed " means prescribed by rules made under this Act.-

(w) record " means any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable of being reproduced therefrom, other than a sound track associated with a cinematograph film ;

(x) recording " means the aggregate of the sounds embodied in and capable of being reproduced by means of a record;

(y) work " means any of the following works, namely: -

(i) a literary, dramatic, musical or artistic work;

(ii) a cinematograph film;

(iii) a record;

(z) "work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors ;

(za) " work of sculpture " includes casts and models.

3.

Meaning of Publication.

3.Meaning of Publication. For the purposes of this Act, "publication" means,-

(a) in the case of a literary, dramatic, musical or artistic work,the issue of copies of the work, either in whole or in part, to the public in a manner sufficient to satisfy the reasonable requirements of the public having regard to the nature of the work;

(b) in the case of a cinematograph film, the sale or hire or offer for sale or hire of the film or copies thereof to the public;

(c) in the case of a record, the issue of records to the public in sufficient quantities;

1 Omitted by Act 23 of 1983, s.3, (w.e.f.9.8.1984)

2 Subs. by s.4, ibid (w.e.f. 9.8.1984)

3 Ins. by Act 65 of 1984, s.2, (w.e.f.8.10.1984)

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but does not, except as otherwise expressly provided in this Act, include,-

(i) in the case of a literary, dramatic or musical work,

the issue of any records recording such work ;

(ii) in the case of a work of sculpture or an architectural work of art, the issue of photographs and engravings of such work.

4.

When work not deemed to be published or performed in public.

4. When work not deemed to be published or performed in public. Except in relation to infringement of copyright, a work shall not be deemed to be published or performed in public, if published, or performed in public, without the licence of the owner of the copyright.

5.

When work deemed to be first published in India.

5. When work deemed to be first published in India. For the purposes of this Act, a work published in India shall be deemed to be first published in India, notwithstanding that it has been published simultaneously in some other country, unless such other country provides a shorter term of copyright for such work ; and a work shall be deemed to be published simultaneously in India and in another country if the time between the publication in India and the publication in such other country does not exceed thirty days or such other period as the Central Government may, in relation to any specified country, determine.

6.

Certain disputes to be decided by Copyright Board.

6. Certain disputes to be decided by Copyright Board.

If any question arises,--

(a) whether for the purposes of section 3, copies of any,--

(i) literary, dramatic, musical or artistic work are issued to the public in a manner sufficient to satisfy the reasonable requirements of the public; or

(ii) records are issued to the public in sufficient quantities; or.

(b) whether for the purposes of section 5, the term of copyright for any work is shorter in any other country than that provided in respect of that work under this Act ;

it shall be referred to the Copyright Board constituted under section 11 whose decision thereon shall be final.

7.

NAtionality of author where the making of unpublished work is extended over considerable period.

7.NAtionality of author where the making of unpublished work is extended over considerable period. Where, in the case of an unpublished work, the making of the work is extended over a considerable period, the author of the work shall, for the purposes of this Act, be deemed to be a citizen of, or domiciled in, that country of which he was a citizen or wherein he was domiciled during any substantial part of that period.

8.

Domicile of corporations.

8.Domicile of corporations. For the purposes of this Act, a body corporate shall be deemed to be domiciled in India if it is incorporated under any law in force in India;

1 Subs. by Act 23 of 1983, s.5 (w.e.f. 9.8.1984)

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COPYRIGHT OFFICE AND COPYRIGHT BOARD

CHAPTER II

COPYRIGHT OFFICE AND COPYRIGHT BOARD

9.

Copyright office.

9. (1)Copyright office. There shall be established for the purposes of this Act an office to be called the Copyright Office.

(2) The Copyright Office shall be under the immediate control of the Registrar of Copyrights who shall act under the superintendence and direction of the Central Government.

(3) There shall be a seal for the Copyright Office.

10.

Registrar and Deputy Registrars of Copyrights.

10. (1) Registrar and Deputy Registrars of Copyrights. The Central Government shall appoint a Registrar of Copyrights and may appoint one or more Deputy Registrars of Copyrights.

(2) A Deputy Registrar of Copyrights shall discharge under the superintendence and direction of the Registrar of Copyrights such functions of the Registrar under this Act as the Registrar may, from time to time, assign to him ; and any reference in this Act to the Registrar of Copyrights shall include a reference to a Deputy Registrar of Copyrights when so discharging any such functions.

11.

Copyright Board.

11. (1) Copyright Board. As soon as may be after the commencement of this Act, the Central Government shall constitute a Board to be called the Copyright Board which shall consist of a Chairman and not less than two nor more than eight other members.

(2) The Chairman and other members of the Copyright Board shall hold office for such period and on such terms and conditions as may be prescribed.

(3) The Chairman of the Copyright Board shall be a person who is, or has been, a Judge of the Supreme Court or a High Court or is qualified for appointment as a Judge of a High Court.

(4) The Registrar of Copyrights shall be the Secretary of the Copyright Board and shall perform such functions as may be prescribed.

12.

Powers and procedure of Copyright Board.

12.(1) Powers and procedure of Copyright Board. The Copyright Board

shall, subject to any rules that may be made under this Act, have power to regulate its own procedure, including the fixing of places and times of its sittings:

Provided that the Copyright Board shall ordinarily hear any proceeding instituted before it under this Act within the zone in which, at the time of the institution of the proceeding, the person instituting the proceeding actually and voluntarily resides or carries on business or personally works for gain.

Explanation.-In this sub-section " zone " means a zone specified in section 15 of the States Reorganisation Act, 1956. (7 of 1956).

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(2) The Copyright Board may exercise and discharge its powers and functions through Benches constituted by the Chairman of the Copyright Board from amongst its members, each Bench consisting of not less than three members.

(3) If there is a difference of opinion among the members of the Copyright Board or any Bench thereof in respect of any matter coming before it for decision under this Act, the opinion of the majority shall prevail:

Provided that where there is no such majority--

(i) if the Chairman was one of the members who heard the matter, the opinion of the Chairman shall prevail ;

(ii) if the Chairman was not one of the members who heard the matter, the matter shall be referred to him for his opinion and that opinion shall prevail.

(4) The Copyright Board may authorise any of its members to exercise any of the powers conferred on it by section 74 and any order made or act done in exercise of those powers by the member so authorised shall be deemed to be the order or act, as the case may be, of the Board.

(5) No member of the Copyright Board shall take part in any proceedings before the Board in respect of any matter in which he has a personal interest.

(6) No act done or proceeding taken by the Copyright Board under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

(7) The Copyright Board shall be deemed to be a civil court for the purpose of sections 345 and 346 of the Code of Criminal Procedure 1973 and all proceedings before the Board shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code.

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COPYRIGHT

CHAPTER III

COPYRIGHT

13.

Works in which copyright subsists.

13 (1) Works in which copyright subsists. Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,-

(a) original literary, dramatic, musical and artistic works;

1 Subs. by Act 23 of 1983, s.6 (w.e.f. 9.8.1984)

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(b) cinematograph films; and

(c) records.

(2) Copyright shall not subsist in any work specified in subsection (1), other than a work to which the provisions of section 40 or section 41 apply, unless,-

(i) in the case of a published work, the work is first published in India, or where the work is first published outside India, the author is at the date of such publication, or in a case where the author was dead at that date was at the time of his death, a citizen of India ;

(ii) in the case of an unpublished work other than an architectural work of art, the author is at the date of the making of the work a citizen of India or domiciled in India; and

(iii) in the case of an architectural work of art, the work is located in India.

Explanation.-In the case of a work of joint authorship, the conditions conferring copyright specified in this sub-section shall be satisfied by all the authors of the work.

(3) Copyright shall not subsist-

(a) in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work ;

(b) in any record made in respect of a literary, dramatic or musical work, if in making the record, .copyright in such work has been infringed.

(4) The copyright in a cinematograph film or a record shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or as the case may be, the record is made.

(5) In the case of an architectural work of art, copyright shall subsist only in the artistic character and design and shall not extend to processes or methods of construction.

14.

Meaning of copyright.

14. (1) Meaning of copyright. For the purposes of this Act, " copyright " means the exclusive right, by virtue of, and subject to the provisions of, this

(a) in the case of a literary, dramatic or musical work, to do and authorise the doing of any of the following acts, namely: -

(i) to reproduce the work in any material form

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(ii) to publish the work;

(iii) to perform the work in public;

(iv) to produce, reproduce, perform or publish any translation of the work ;

(v) to make any cinematograph film or a record in respect of the work ;

(vi) to communicate the work by radio broadcast or to communicate to the public by a loud-speaker or any other similar instrument the broadcast of the work;

(vii) to make any adaptation of the work;

(viii)to do in relation to a translation or an adaptation of the work any of the acts specified in relation to the work in clauses (i) to (vi) ;

(b) in the case of an artistic work, to do or authorise the doing of any of the following acts, namely:-

(i) to reproduce the work in any material form;

(ii)to publish the work ;

(iii)to include the work in any cinematograph film;

(iv)to make any adaptation of the work;

(v) to do in relation to an adaptation of the work any of the acts specified in relation to the work in clauses (i) to (iii).

(c) in the case of a cinematograph film, to do or authorise the doing of any of the following acts, namely;

(i) to make a copy of the film ;

(ii)to cause the film, in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds, to be heard in public ;

(iii)to make any record embodying the recording in any part of the sound track associated with the film by utilising such sound track;

(iv)to communicate the film by broadcast;

(d) in the case of a record, to do or authorise the doing of any of the following acts by utilising the record, namely:-

(i) to make any other record embodying the same recording;

(ii) to cause the recording embodied in the record to be heard in public ;

1 Subs. by Act 23 of 1983, s.2 (w.e.f. 9.8.1984)

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(iii) to communicate the recording embodied in the record by broadcast;

(2) Any reference in sub-section (1) to the doing of any act in

relation to a work or a translation or an adaptation thereof shall include a reference to the doing of that act in relation to a substantial part thereof.

15.

Special provision regarding copyright in designs registered or capable of being registered under the Indian Patents and Designs Act, 1911.

15. (1) Special provision regarding copyright in designs registered or capable of being registered under the Indian Patents and Designs Act, 1911. Copyright shall not subsist under this Act in any design which is registered under the Designs Act, 1911. (2 of 1911).

(2) Copyright in any design, which is capable of being registered under the designs Act, 1911, (2 of 1911) but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his licence, by any other person.

16.

No Copyright except as provided in this Act.

16. No Copyright except as provided in this Act. No person shall be entitled to copyright or any similar right in any work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act or of any other law for the time being in force but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

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OWNERSHIP OF COPYRIGHT AND THE RIGHTS OF THE OWNER

CHAPTER IV

OWNERSHIP OF COPYRIGHT AND THE RIGHTS OF THE OWNER

17.

First owner of copyright.

17. First owner of copyright. Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein;

Provided that-

(a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all

1 Subs. by Act 23 of 1983, s.2 (w.e.f. 9.8.1984)

2 Omitted by s.7, ibid. (w.e.f. 9.8.1984)

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other respects the author shall be the first owner of the copyright in the work;

(b) subject to the provisions of clause (a), in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein ;

(c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein ;

(cc) in the case of any address or speech delivered in public, the person who has delivered such address or speech or if such person has delivered such address or speech on behalf of any other person, such other person shall be the first owner of the copyright therein notwithstanding that the person who delivers such address or speech, or, as the case may be, the person on whose behalf such address or speech is delivered, is employed by any other person who arranges such address or speech or on whose behalf or premises such address or speech is delivered;

(d) in the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first

owner of the copyright therein ;

(dd) in the case of a work made or first published by or under the direction or control of any public undertaking such public undertaking shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein.

Explanation.-For the purposes of this clause and section 28A, "public undertaking" means-

(i) an undertaking owned or controlled by Government;
or

the
(ii) a Government Company as defined in section 617 of Companies Act, 1956; or

(iii) a body corporate established by or under any Central, Provincial or State Act.]

(e) in the case of a work to which the provisions of section 41 apply, the international organisation concerned shall be the first owner of the copyright therein.

18.

Assignment of copyright.

18. (1)Assignment of copyright. The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof :

Provided that in the case of the assignment of copyright in any future work, the assignment shall take effect only when the work comes into existence.

(2) Where the assignee of a copyright becomes entitled to any right comprised in the copyright, the assignee as respects the rights so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of copyright and the provisions of this Act shall have effect accordingly.

(3) In this section, the expression " assignee " as respects the assignment of the copyright in any future work includes the legal representatives of the assignee, if the assignee dies before the work comes into existence.

19.

Mode of Assignment.

19.(1) Mode of Assignment. No assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or by his duly authorised agent.

(2) The assignment of the copyright in any work shall, among other things, -indicate clearly the rights proposed to be assigned and the size of the work.

19A. Disputes with respect to assignment of copyright. Where any dispute arises with respect to the assignment of, or any of the terms of, the assignment of, any copyright, the Copyright Board may, on receipt of a complaint from any of the parties to the dispute and after holding such inquiry as it may deem necessary, pass such orders as it may deem fit, including orders by way of giving permission to the owner of the copyright to revoke its assignment if the terms of the assignment are harsh to him or if the publisher unduly delays the publication of the work or by way of issue of a certificate for the recovery of any royalty due to the

1 Ins. by Act 23 of 1983, s.8 (w.e.f. 9.8.1984)

2 Re-numbered and ins. by s.9 ibid. (w.e.f. 9.8.1984)

3 Ins. by s.10, ibid. (w.e.f. 9.8.1984)

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20.

Transmission of copyright in manuscript by testamentary disposition.

20. Transmission of copyright in manuscript by testamentary disposition. Where under a bequest a person is entitled to the manuscript of a literary, dramatic or musical work, or to an artistic work, and the work was not published before the death of the testator, the bequest shall, unless the contrary intention is indicated in the testator's will or any codicil thereto, be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death.

Explanation.-In this section., the expression " manuscript " means the original document embodying the work, whether written by hand or not.

21.

Right of author to relinquish copyright.

21.(1)Right of author to relinquish copyright. The author of a work may relinquish all or any of the rights comprised in the copyright in the work by giving notice in the prescribed form to the Registrar of Copyrights and thereupon such rights shall, subject to the provisions of sub-section (3), cease to exist from the date of the notice.

(2)On receipt of a notice under sub-section (1), the Registrar of Copyrights shall cause it to be published in the Official Gazette and in such other manner as he may deem fit.

(3)The relinquishment of all or any of the rights comprised in the copyright in a work shall not affect any rights subsisting in favour of any person on the date of the notice referred to in sub-section (1).

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TERM OF COPYRIGHT

CHAPTER V

TERM OF COPYRIGHT

22.

Term of copyright in published literary, dramatic, musical and artistic works.

22.Term of copyright in published literary, dramatic, musical and artistic works. Except as otherwise hereinafter provided, copyright shall subsist in any literary, dramatic, musical or artistic work (other than a photograph) published within the lifetime of the author until sixty years from the beginning of the calendar year next following the year in which the author dies.

Explanation.-In this section the reference to the author shall, in the case of a work of joint authorship, be construed as a reference to the author who dies last.

23.

Term of copyright in anonymous and pseudonymous works.

23.(1)Term of copyright in anonymous and pseudonymous works. In the case of a literary, dramatic, musical or artistic work (other than a photograph), which is published anonymously or pseudonymously, copyright shall subsist until sixty years from the beginning of the

calendar year next following the year in which the work is first published:

Provided that where the identity of the author is disclosed before the expiry of the said period, copyright shall subsist until sixty years

1 Subs. by Act 13 of 1992, s.2 (w.e.f. 28.12.1991)

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from the beginning of the calendar year next following the year in which the author dies.

(2) In sub-section (1), references to the author shall, in the case of an anonymous work of joint authorship, be construed,-

(a) where the identity of one of the authors is disclosed, as references to that author ;

(b) where the identity of more authors than one is disclosed, as references to the author who dies last from amongst such authors.

(3) In sub-section (1), references to the author shall, in the case of a pseudonymous work of joint authorship, be construed,-

(a) where the names of one or more (but not all) of the authors are pseudonyms and his or their identity is not disclosed, as references to the author whose name is not a pseudonym, or, if the names of two or more of the authors are not pseudonyms, as references to such of those authors who dies last ;

(b) where the names of one or more (but not all) of the authors are pseudonyms and the identity of one or more of them is disclosed, as references to the author who dies last from amongst the authors whose names are not pseudonyms and the authors whose names are pseudonyms and are disclosed; and

(c) where the names of all the authors are pseudonyms and the identity of one of them is disclosed, as references to the author whose identity is disclosed or if the identity of two or more of such authors is disclosed, as references to such of those authors who dies last.

Explanation.-For the purposes of this section, the identity of an author shall be deemed to have been disclosed, if either the identity of the author is disclosed publicly by both the author and the publisher or is otherwise established to the satisfaction of the Copyright Board by that author.

24.

Term of copyright in posthumous work.

24. (1)Term of copyright in posthumous work. In the case of a literary, dramatic or musical work or an engraving, in which copyright subsists at the date of the death of the author or, in the case of any such work of joint authorship, at or immediately before the date of the death of the author who dies last, but which, or any adaptation of which, has not been published before that date, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the

1 Subs. by Act 13 of 1992, s.2 (w.e.f. 28.12.1991)

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work is first published or, where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year.

(2) For the purposes of this section a literary, dramatic or musical work or an adaptation of any such work shall be deemed to have been published, if it has been performed in public or if any records made in respect of the work have been sold to the public or have been offered for sale to the public.

25.

Term of copyright in photographs.

25.Term of copyright in photographs. In the case of a photograph, copyright shall subsist until from the beginning of the calendar year next following the year in which the photograph is published.

26.

Term of copyright in cinematograph films.

26.Term of copyright in cinematograph films. In the case of a cinematograph film, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the film is published.

27.

Term of copyright in records.

27.Term of copyright in records. In the case of a record, copyright shall subsist until from the beginning of the calendar year next following the year in which the record is published.

28.

Term of copyright in Government works.

28.Term of copyright in Government works. In the case of a Government work, where Government is the first owner of the copyright therein, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the work is first published.

28A.Term of copyright in works of public undertakings. In the case of a work , where a public undertaking is the first owner of the copyright therein, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the work is first published.

29.

Term of copyright in works of international organisations.

29.Term of copyright in works of international organisations. In the case of a work of an international Organisation to which the provisions of section 41 apply, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the work is first published.

CHAP

LICENCES

CHAPTER VI

LICENCES

30.

Licences by owners of copyright.

30. Licences by owners of copyright. The owner of the copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in the right by licence in writing signed by him or by his duly authorised agent:

Provided that in the case of a licence relating to copyright in any future work, the licence shall take effect only when the work comes into existence.

1 Ins. by Act 23 of 1983, s.11 (w.e.f. 9.8.1984)

2 Subs. by Act 13 of 1992, s.2 (w.e.f. 28.12.1991)

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Explanation.-Where a person to whom a licence relating to copyright in any future work is granted under this section dies before the work comes into existence, his legal representative shall, in the absence of any provision to the contrary in the licence, be entitled to the benefit of the licence.

31.

Compulsory licence in works withheld from public.

31. (1) Compulsory licence in works withheld from public. If at any time during the term of copyright in any Indian work which has been published or performed in public, a complaint is made to the Copyright Board that the owner of copyright in the work-

(a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work, and by reason of such refusal the work is withheld from the public; or

(b) has refused to allow communication to the public by broadcast of such work or in the case of a record the work recorded in such record, on terms which the complainant considers reasonable ;

the Copyright Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that the grounds for such refusal are not reasonable, direct the Registrar of Copyrights to grant to the complainant a licence to republish the work, perform the work in public or communicate the work to the public by broadcast as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such

other terms and conditions as the Copyright Board may determine ; and thereupon the Registrar of Copyrights shall grant the licence to the complainant in accordance with the directions of the Copyright Board, on payment of such fee as may be prescribed.

Explanation.-In this sub-section, the expression " Indian work includes-

(i) an artistic work, the author of which is a citizen of India; and

(ii) a cinematograph film or a record made or manufactured in India.

(2) Where two or more persons have made a complaint under sub-section (1), the licence shall be granted to the complainant who in the opinion of the Copyright Board would best serve the interests of the general public.

31A. (1)Compulsory licence in unpublished Indian works. Where, in the case of an Indian work referred to in Sub-clause (iii) of clause (1) of section 2, the author is dead or unknown or cannot be traced, or the owner of the copyright in such work cannot be found, any person may apply to the Copyright Board for a licence to publish such work or a translation thereof in any language.

(2)Before making an application under sub-section (1), the applicant shall publish his proposal in one issue of a -daily newspaper in the English language having circulation in the major part of the country and where the application is for the publication of a translation in any language, also in one issue of any daily newspaper in that language.

(3)Every such application shall be made in such form as may be prescribed and shall be accompanied with a copy of the advertisement issued under sub-section (2) and such fee as may be prescribed.

(4)Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, direct the Registrar of Copyrights to grant to the applicant a licence to publish the work or a translation thereof in the language mentioned in the application subject to the payment of such royalty and subject to such other terms and conditions as the Copyright Board may determine, and thereupon the Registrar of Copyrights shall grant the licence to the applicant in accordance with the direction of the Copyright Board.

(5)Where a licence is granted under this section, the Registrar of Copyrights may, by order, direct the applicant to deposit the amount of the royalty determined by the Copyright Board in the public account of India or in any other account specified by the Copyright Board so as to enable the owner of the copyright or, as the case may be, his heirs, executors or the legal representatives to claim such royalty at any time.

(6) Without prejudice to the foregoing provisions of this section, in the case of a work referred to in sub-section (1), if the original author is dead, the Central Government may, if it considers that the publication of the work is desirable in the national interest, require the heirs, executors or legal representatives of the author to publish such work within such period as may be specified by it.

(7) Where any work is not published within the period specified by the Central Government under sub-section (6), the Copyright Board may, on an application made by any person for permission to publish the work and after hearing the parties concerned, permit such publication on payment of such royalty as the Copyright Board may, in the circumstances of such case, determine in the prescribed manner.

1 Subs. by Act 23 of 1983, s.2 (w.e.f. 9.8.1984)

2 Ins. by s.12, ibid. (w.e.f. 9.8.1984)

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32.

Licence to produce and publish translations.

32.(1) Licence to produce and publish translations. Any person may apply to the Copyright Board for a licence to produce and publish a translation of a literary or dramatic work in any language. after a period of seven years from the first publication of the work.

(1A) Notwithstanding anything contained in sub-section . (1), any person may apply to the Copyright-Board for a licence to produce and publish a translation, in printed or analogous forms of reproduction, of a literary or dramatic work, other than an Indian work, in any language in general use in India after a period of three years from the first publication of such work, if such translation is required for the purposes of teaching, scholarship or research:

Provided that where such translation is in a language in general use in any developed country, such application may be made after a period of one year from such publication.

(2) Every application under this section shall be made in such form as may prescribed and shall state the proposed retail price of a copy of the translation of the work.

(3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.

(4) Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, grant to the applicant a licence, not being an exclusive licence, to produce and publish a translation of the work in the language mentioned in the application-

(i) subject to the condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner; and

(ii) where such licence is granted on an application under sub-section (1A), subject also to the condition that the licence shall not extend to the export of copies of the translation of the work outside India and every copy of such translation shall contain a notice in the language of such translation that the copy is available for distribution only in India:

Provided that nothing in clause (ii) shall apply to the export by Government or any authority under the Government of copies of such translation in a language other than English, French or Spanish to any country if-

(1) such copies are sent to citizens of India residing outside India or to any association of such citizens outside India; or

(2) such copies are meant to be used for purposes of teaching, scholarship or research and 'not for any commercial' purposes; and

(3) in either case, the permission for such export has been given by the Government of that country

Provided further that no licence under this section shall be granted, unless--

(a) a translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorised by him, within seven years or three years or one year, as the case may be, of the first publication of the work, if a translation has been so published, it has been out of print ;

(b) the applicant has proved to the satisfaction of the Copyright Board that he had requested and had been denied authorisation by the owner of the copyright to produce and publish such translation, or that he was, after due diligence on his part, unable to find the owner of the copyright ;

(c) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for such authorisation by registered air mail post to the publisher whose name appears from the work, and in the case of an application for a licence under sub-section (1), not less than two months before such application.

(cc) a period of six months in the case of an application under sub-section (1A) (not being an application under the proviso thereto), or nine months in the case of an application under the proviso to that sub-section, has elapsed from the date of making the request under clause (b) of this proviso, or where a copy of the request has been sent under clause (c) of this proviso, from the date of sending of such copy, and the translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorised by him within the said period of six months or nine months, as the case may be;

(ccc) in the case of any application made under sub-section (1A),--

(i) the name of the author and the title of the particular edition of the work proposed to be translated are printed on all the copies of the translation;

(ii) if the work is composed mainly of illustrations, the provisions of section 32A are also complied with;

(d) the Copyright Board is satisfied that the applicant is competent to produce and publish a correct translation of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section ;

1 Ins. and Subs. by Act 23 of 1983, s.3 (w.e.f. 9.8.1984)

(e) the author has not withdrawn from circulation copies of the work; and

(f) an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work.

(5) Any broadcasting authority may apply to the Copyright Board for a licence to produce and publish the translation of-

(a) a work referred to in subsection (1A) and published in

printed or analogous forms of reproduction; or

(b) any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities,

for broadcasting such translation for the purposes of teaching or for the dissemination of the results of specialized, technical or scientific research to the experts in any particular field.

(6) The provisions of sub-sections (2) to (4) in so far as they are relatable to an application under sub-section (1A), shall, with the necessary modifications, apply to the grant of a licence under sub-section (5) and such licence shall not also be granted unless-

(a) the translation is made from a work lawfully acquired;

(b) the broadcast is made through the medium of sound and visual recordings;

(c) such recording has been lawfully and exclusively made for the purpose of broadcasting in India by the applicant or by any other broadcasting agency; and

(d) the translation and the broadcasting of such translation are not used for any commercial purposes.

Explanation.-For the purposes of this section,-

(a) "developed country" means a country which, is not a developing country;

(b) "developing country" means a country which is for the time being -regarded as, such in conformity with the practice of the General Assembly of the United Nations;

(c). "purposes of research" does not include purposes of industrial research, or purposes of research by bodies corporate (not being bodies, corporate owned or controlled by Government) or other associations or body of persons for commercial purposes.

(d) "purposes of teaching, research or scholarship" includes-

(i) purposes of instructional activity at all levels in educational institutions, including Schools, Colleges, Universities and tutorial institutions; and.

(ii) purposes of all other types of organised educational activity.

32A. (1) Licence to reproduce and publish works for certain

purposes. Where, after the expiration of the relevant period from the date of the first publication of an edition of a literary, scientific or artistic work,-

(a) the copies of such edition are not made available in India; or

(b) such copies have not been put on sale in India for a period of six months,

to the general public, or in connection with systematic instructional activities at a price reasonably related to that normally charged in India for comparable works by the owner of the right of reproduction or by any person authorised by him In this behalf, any person may apply to the, Copyright Board for a licence to reproduce and publish such work in printed or analogous forms of reproduction at the price at which such edition is sold or at a lower price for the purposes of systematic instructional activities.

(2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the work to be reproduced.

(3) Every applicant for a licence under this section shall, along with his. application, deposit with the Registrar of Copyrights such fee as may be prescribed.

(4) Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, grant to the applicant a licence, not being an -exclusive licence, to produce and publish a reproduction of the work mentioned in the application subject to the conditions that,-

(i) the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the reproduction of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner;

(ii) a licence granted under this section shall not extend to the export of copies of the reproduction of the work outside India -and every copy of such reproduction shall contain a notice that the copy is available for distribution only in India:

Provided that no such licence shall be granted unless-

(a)the applicant has proved to the satisfaction of the Copyright Board that he had requested and had been denied authorisation by the owner of the copyright in the work to reproduce and publish such work or that he was, after due diligence on his part, unable to find such owner;

(b)where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for such authorisation by registered air-mail post to the published whose name appears from the work not less than three months

before the application for the licence;

(c)the Copyright Board is satisfied that the applicant is competent to reproduce and publish, an accurate reproduction of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section;

(d)the applicant undertakes to reproduce and publish the work at such price as may be fixed by the Copyright Board, being a price reasonably related to the price normally charged in India for works of the same standard on the same or similar subjects;

(e)a period of six months in the case of an application for the reproduction and publication of any work of natural science, physical science, mathematics or technology, or a period of three months in the case of an application for the reproduction and publication of any other work, has elapsed from the date of making the request under clause (a), or where a copy of the request has been sent under clause (b), from the date of sending of a copy, and a reproduction of the work has not been published by the owner of the copyright in the work or any person authorised by him within the said period of six months or, three months, as the case may be;

(f)the name of the author and the title of the particular edition of the work proposed to be reproduced are printed on all the copies of the reproduction;

(g)the author has not withdrawn from circulation copies of the work; and

(h)an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work.

(5) No licence to -reproduce and publish the translation of a work shall be granted under this section unless such translation has been published by the owner of the right of translation or any person authorised by him and the translation is not in a language in general use in India.

(6)The provisions of this section shall also apply to the reproduction and publication, or translation into a language in general

use the India, of any text incorporated in audiovisual fixations prepared and published solely for the purpose of systematic instructional activities.

Explanation.-For the purposes of this section, "relevant period", in relation to any work, means a period of-

(a) seven years from the date of the first publication of that work, where the application is for the reproduction and publication of any work of, or relating to, fiction, poetry,

drama, music or art;

(b) three years from the date of the first publication of that work, where the application is for the reproduction and publication of any work -of, or relating to, natural science, physical science, mathematics or technology; and

(c) five years from the date of the first publication of that work, in any other case.

32B. (1) Termination of licences issued under this Chapter. If, at any time after the granting of a licence to produce and publish the translation of a work in any language under subsection (1A) of section 32 (hereafter in this sub-section referred to as the licensed work),, the owner of the copyright in the work or any person authorised by him publishes a translation of such work in the same language and which is substantially the same in content at a price reasonably related to the price normally charged in India for the translation of works of the same standard on the same or similar subject, the licence so granted shall be terminated:

Provided that no such termination shall take effect until after the expiry of a period of three months from the date of service of a notice in the prescribed manner. on the person holding such licence by the owner of the right of translation intimating the publication of the translation as aforesaid:

Provided further that copies of the licensed work produced and published by the person holding such licence before the termination of the licence takes effect may continue to be sold or distributed until the copies already produced and published are exhausted.

(2) If, at any time after the granting of a licence to produce and publish the reproduction or translation of any work under section 32A, the owner of the right of-reproduction or any person authorised by him sells or distributes copies -of such work or a translation thereof, as the case may be, in the same language and which is substantially the same in content at a price reasonably related to the price normally charged in India for works of the same standard on the same or similar subject, the licence so granted shall be terminated:

Provided that no such termination shall take effect until after the expiry of a period of three months from the date of service of a notice in the prescribed manner on the person holding the licence by the owner of the right of reproduction intimating. the sale or distribution of the copies of the editions of work as aforesaid-

Provided further that any copies already reproduced by the licensee before such termination takes effect may continue to be sold or distributed until the copies already produced are exhausted.

CHAP

PERFORMING RIGHTS SOCIETIES

CHAPTER VII

PERFORMING RIGHTS SOCIETIES

33.

Performing rights society to file statements of fees, charges and royalties.

33. (1) Performing rights society to file statements of fees, charges and royalties. Every performing rights society shall, within the prescribed time and in the prescribed manner, prepare, publish and file with the Registrar of Copyrights, statements of all fees, charges or royalties which it proposes to collect for the grant of licences for performance in public of works in respect of which it has authority to grant such licences.

(2) If any such society fails to prepare, publish or file with the Registrar of Copyrights the statements referred to in sub-section (1) in relation to any work in accordance with the provisions of that sub-section, no action or other proceeding to enforce any remedy, civil or criminal, for infringement of the performing rights in that work shall be commenced except with the consent of the Registrar of Copyrights.

34.

Objections relating to published statements.

34. Objections relating to published statements. Any person having any objections to any fees, charges or royalties or other particulars included in any statement referred to in section 33 may at any time lodge such objections in writing at the Copyright Office.

35.

Determination of objections.

35. (1) Determination of objections. Every objection lodged at the Copyright Office under section 34 shall, as soon as may be, be referred to the Copyright Board and the Copyright Board shall decide such objection in the manner hereinafter provided.

(2) The Copyright Board shall, in respect of every such objection, give notice thereof to the performing rights society concerned

(3) The Copyright Board shall, after giving such society and the

person who lodged the objection a reasonable opportunity of being heard and after making such further inquiry as may be prescribed, make such alterations in the statements as it may think fit, and shall transmit the alterations made by it to the Registrar of Copyrights, who shall thereupon, as soon as practicable after the receipt of such alterations, publish them in the Official Gazette and furnish the performing rights society concerned and the person who lodged the objection with a copy thereof.

1 Ins. by Act 23 of 1983, s.13 (w.e.f. 9.8.1984)

2 Ins. by s.14, ibid (w.e.f.9.8.1984)

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(4) The fees, charges or royalties as altered by the Copyright Board shall be the fees, charges or royalties which the performing rights society concerned may respectively lawfully sue for or collect in respect of the grant by it of licences for the performance in public of works to which such fees, charges or royalties relate.

(5) No performing rights society shall have any right of action or any right to enforce any civil or other remedy for infringement of the performing rights in any work against any person who has tendered or paid to such society the fees, charges or royalties specified in respect of that work in a statement published by that society under sub-section (1) of section 33 or where such statement has been altered by the Copyright Board under this section in the statement so altered.

(6) Where any person has lodged an objection at the Copyright Office regarding the fees, charges or royalties in respect of any work included in a statement published under section 33, that person or any other person, on depositing such fees, charges or royalties at the Copyright Office, may, pending the final decision of such objection by the Copyright Board or the High Court, as the case may be, perform that work without infringing the copyright therein.

(7) The fees, charges or royalties deposited at the Copyright Office under sub-section (6) shall be paid to the performing rights society concerned or to the person who made the deposit, or partly to such society and partly to such person, in accordance with the final decision on the objection as aforesaid.

36.

Exiting rights not affected.

36. Exiting rights not affected. Nothing in this Chapter shall be deemed to affect-

(a) any rights or liabilities in relation to the performing

rights in any work accrued or incurred before the commencement of this Act ;

(b) any legal proceedings in respect of such rights or liabilities pending at such commencement.

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RIGHTS OF BROADCASTING AUTHORITIES

CHAPTER VIII

RIGHTS OF BROADCASTING AUTHORITIES

37.

Broadcast reproduction right.

37. (1) Broadcast reproduction right. Where any programme is broadcast by the Government or any other broadcasting authority, a special right

1 Omitted by Act 23 of 1983, s.15 (w.e.f.9.8.1984)

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to be known as " broadcast reproduction right " shall subsist in such programme.

(2) The Government or other broadcasting authority, as the case may be, shall be the owner of the broadcast reproduction right and such right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the programme is first broadcast.

(3) During the continuance of a broadcast reproduction right in relation to any programme, any person who,-

(a) without the licence of the owner of the right-

(i) rebroadcasts the programme in question or any substantial part thereof ; or

(ii) causes the programme in question or any substantial part thereof to be heard in public ; or

(b) without the licence of the owner of the right to utilise the broadcast for the purpose of making a record recording the programme in question or any substantial part thereof, makes any such record,

shall be deemed to infringe that broadcast reproduction right.

38.

Other provisions of this Act to apply to broadcast reproduction rights.

38. Other provisions of this Act to apply to broadcast reproduction rights. Sections 18, 19, 30, 53, 55, 58, 64, 65 and 66 shall, with any necessary adaptations and modifications, apply in relation to the broadcast reproduction right in any programme as they apply in relation to the copyright in a work:

Provided that a licence to utilise a broadcast for the purpose of making a record recording a programme in which broadcast reproduction right subsists or any substantial part of such programme, shall not take effect unless the person to whom such licence is granted has also obtained a licence to make records recording the work embodied in such programme from the owner of the copyright in such work.

39.

Other rights not affected.

39. Other rights not affected. For the removal of doubts, it is hereby declared that the broadcast reproduction right conferred upon a broadcasting authority under this Chapter shall not affect the copyright-

(a) in any literary, dramatic or musical work which is broadcast by that authority ; or

(b) in any record recording any such work.

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INTERNATIONAL COPYRIGHT

CHAPTER IX

INTERNATIONAL COPYRIGHT

40.

Power to extend copyright to foreign works.

40. Power to extend copyright to foreign works. The Central Government may, by an order published in the Official Gazette, direct that all or any provisions of this Act shall apply-

(a) to works first published in any territory outside India to which the order relates in like manner as if they were first published within India;

(b) to unpublished works, or any class thereof, the authors whereof were at the time of the making of the work, subjects or citizens of a foreign country to which the order relates in like manner as if the authors were citizens of India ;

(c) in respect of domicile in any territory outside India to which the order relates in like manner as if such domicile were in India;

(d) to any work of which the author was at the date of the first publication thereof, or, in a case where the author was dead at that date, was at the time of his death, a subject or citizen of a foreign country to which the order relates in like manner as if the author was a citizen of India at that date or time ;

and thereupon, subject to the provisions of this Chapter and of the order, this Act shall apply accordingly:

Provided that-

(i) before making an order under this section in respect of any foreign country (other than a country with which India has entered into a treaty or which is a party to a convention relating to copyright to which India is also a party), the Central Government shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to the Central Government expedient to require for the protection in that country of works entitled to copyright under the provisions of this Act ;

(ii) the order may provide that the provisions of this Act shall apply either generally or in relation to such classes of

1 For the International Copyright Order, 1958. see Gazette of India, Extraordinary, Pt. II, Sec. 3, p. 181.

works or such classes of cases as may be specified in the order ;

(iii) the order may provide that the term of copyright in India shall not exceed that conferred by the law of the country to which the order relates ;

(iv) the order may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities, if any, as may be prescribed by the order ;

(v) in applying the provisions of this Act as to ownership of copyright, the order may make such exceptions and modifications as appear necessary,, having regard to the law of the foreign country ;

(vi) the order may provide that this Act or any part thereof shall not apply to works made before the commencement of the order or that this Act or any part thereof shall not apply to works first published before the commencement of the order.

41.

Provisions as to works of certain international organisations.

41. (1)Provisions as to works of certain international organisations. Where-

(a) any work is made or first published by or under the direction or control of any Organisation to which this section applies, and

(b) there would, apart from this section, be no copyright in the work in India at the time of the making or, as the case may be, of the first publication thereof, and

(c) either-

(i)the work is published as aforesaid in pursuance of an agreement in that behalf with the author, being, an agreement which does not reserve to the author the copyright, if any, in the work, or

(ii)under section 17 any copyright in the work would belong to the Organisation;

there shall, by virtue of this section,. be copyright in the work throughout India.

(2) Any Organisation to which this section applies which at the material time had not the legal capacity of a body corporate shall have and be deemed at all material times to have had the legal capacity of a body corporate for the purpose of holding, dealing with, and enforcing copyright and in connection with all legal proceedings relating to copyright.

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(3) The organisations to which this section applies are such organisations as the Central Government may, by order published in the Official Gazette, declare to be organisations of which one or more sovereign powers or the Government or Governments thereof are members to which it is expedient that this section shall apply.

42.

Power to restrict rights in works of foreign authors first published in India.

42. Power to restrict rights in works of foreign authors first published in India. If it appears to the Central Government that a foreign country does not give or has not undertaken to give adequate protection to the works of Indian authors, the Central Government may, by order published in the Official Gazette, direct that such of the provisions of this Act as confer copyright on works first published in India shall not apply to works, published after the date specified in the order, the authors whereof are subjects or citizens of such foreign country and are not domiciled in India, and thereupon those provisions shall not apply to such works.

43.

Orders under this Chapter to be laid before Parliament.

43. Orders under this Chapter to be laid before Parliament. Every order made by the Central Government under this Chapter shall, as soon as may be after it is made, be laid before both Houses of Parliament and shall be subject to such modifications as Parliament may make during the session in which it is so laid or the session immediately following.

CHAP

REGISTRATION OF COPYRIGHT

CHAPTER X

REGISTRATION OF COPYRIGHT

44.

Register of Copyrights.

44. Register of Copyrights. There shall be kept at the Copyright Office a register in the prescribed form to be called the Register of Copyrights in which may be entered the names or titles of works and the names and addresses of authors., publishers and owners of copyright and such other particulars as may be prescribed.

45.

Entries in Register of Copyrights.

45. (1) Entries in Register of Copyrights. The author or publisher of, or the owner of or other person interested in the copyright in, any work may make an application in the prescribed form accompanied by the prescribed fee to the Registrar of Copyrights for entering particulars of the work in the Register of Copyrights:

"Provided that in respect of an -artistic work which is used or is capable of being used in relation to any goods, the application shall include a statement to that effect and shall be accompanied by a certificate from the Registrar of Trade Marks referred to -in section 4 ,of the Trade and Merchandise Marks Act 1958, to the effect that no trade mark identical with or deceptively similar to such artistic work his been registered under that Act in the name of, or-that no application has been made under that Act for such registration by, any person other than the applicant.

(2) On receipt of an application in respect of any work under subsection, (1), the Registrar of Copyrights may, after holding such inquiry as he may deem fit, enter the particulars of the work in the Register of Copyrights

1 For Copyright (International Organisations) Order, 1958, see Gazette of India, Pt. Sec. 3, p. 183.

2 Added by Act 23 of 1983, s.16 (w.e.f. 9.8.1984)

46.

Indexes.

46.Indexes. There shall be also kept at the Copyright Office such indexes of the Register of Copyrights as may be prescribed.

47.

Form and inspection of register.

47.Form and inspection of register. The Register of Copyrights and indexes thereof kept under this Act shall at all reasonable times be open to inspection, and any person shall be entitled to take copies of, or make extracts from, such register or indexes on payment of such fee and subject to such conditions as may be prescribed.

48.

Register of Copyrights to be prima facie evidence of particulars entered therein.

48.Register of Copyrights to be prima facie evidence of particulars entered therein. The Register of Copyrights shall be prima facie evidence of the particulars entered therein and documents purporting to be copies of any entries therein, or extracts therefrom certified by the Registrar of Copyrights and sealed with the seal of the Copyright Office shall be admissible in evidence in all courts without further proof or production of the original.

49.

Correction of entries in the Register of Copy rights.

49.Correction of entries in the Register of Copy rights. The Registrar of Copyrights may, in the prescribed cases and subject to the prescribed conditions, amend or alter the Register of Copyrights by-

(a) correcting any error in any name, address or particulars ; or

(b) correcting any other error which may have arisen therein by accidental slip or omission.

50.

Rectification of Register by Copyright Board.

50. Rectification of Register by Copyright Board. The Copyright Board, on application of the Registrar of Copyrights or of any person aggrieved, shall order the rectification of the Register of Copyrights by-

(a) the making of any entry wrongly omitted to be made in the register, or

(b) the expunging of any entry wrongly made in, or remaining on, the register, or

(c) the correction of any error or defect in the register.

"50A. Entries in the Register of Copyrights, etc., to be published. Every entry made in the Register of Copyrights or the particulars of any work entered under section 45, the correction of every entry made in such register under section 49, and every rectification ordered under section 50, shall be published by the Registrar of Copyrights in the Official Gazette or in such other manner as he may deem fit.

CHAP

INFRINGEMENT OF COPYRIGHT

CHAPTER XI

INFRINGEMENT OF COPYRIGHT

51.

When copyright infringed.

51. When copyright infringed. Copyright in a work shall be deemed to be infringed-

(a) when any person, without a licence granted by the owner of the Copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence

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so granted or of any condition imposed by a competent authority under this Act-

(i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright, or

(ii) permits for profit any place to be used for the "Performance of the work in public where such performance constitutes an infringement of the copyright in the work unless he was not aware and had no reasonable ground for believing that such performance would be an infringement of copyright, or

(b) when any person-

(i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or

(ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or

(iii) by way of trade exhibits in public, or

(iv) imports into India,

any infringing copies of the work.

"Provided that nothing in sub-clause (iv) shall apply to the import of two copies of any work other than a cinematograph film or record, for the private and domestic use of the importer.

Explanation.-For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film shall be deemed to be an "infringing copy".

52.

Certain acts not to be infringement of copyright.

52. (1) Certain acts not to be infringement of copyright. The following acts shall not constitute an infringement of copyright, namely: -

(a) a fair dealing with a literary, dramatic, musical or artistic work for the purposes of-

(i) research or private study;

(ii) criticism or review, whether of that work or of any other work;

(b) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of reporting current events-

(i) in a newspaper, magazine or similar periodical or

(ii) by broadcast or in a cinematograph film or by means of photographs.;

Explanation .---The publication of a compilation of addresses or speeches delivered in public is not a fair dealing of such work within the meaning of this clause.

1 Subs. by Act 23 of 1983, s.2 (w.e.f. 9.8. 1984)

2 Ins. by s.18 ibid. (w.e.f. 9.8.1984)

3 Omitted & Ins. by Act 65 of 1984, s.3 (w.e.f. 8.10.1984)

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(c) the reproduction of a literary, dramatic, musical or artistic work for the purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding ;

(d) the reproduction or publication of a literary, dramatic, musical or artistic work in any work prepared by the Secretariat of a Legislature or, where the Legislature consists of two Houses, by the Secretariat of either House of the Legislature. exclusively for the use of the members of that Legislature;

(e) the reproduction of any literary, dramatic or musical work in a certified copy made or supplied in accordance with any law for the time being in force ;

(f) the reading or recitation in public of any reasonable extract from a published literary or dramatic work ;

(g) the publication in a collection, mainly composed of non-copyright matter, bona fide intended for the use of educational institutions, and so described in the title and in

any advertisement issued by or on behalf of the publisher, of short passages from published literary or dramatic works, not themselves published for the use of educational institutions, in which copyright subsists:

Provided that not more than two such passages from works by the same author are published by the same publisher during any period of five years.

Explanation.-In the case of a work of joint authorship, references in this clause to passages from works shall include references to passages from works by any one or more of the authors of those passages or by any one or more of those authors in collaboration with any other person;

(h) the reproduction of a literary, dramatic, musical or artistic work-

(i) by a teacher or a pupil in the course of instruction ; or

(ii) as part of the questions to be answered in an examination ; or

(iii) in answers to such questions

(i) the performance, in the course of the activities of an educational institution, of a literary, dramatic or musical work by the staff and students of the institution, or of

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a cinematograph film or a record, if the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution ;

(j) the making of records in respect of any literary, dramatic or musical work, if-

(i) records recording that work have previously been made by, or with the licence or consent of, the owner of the copyright in the work ; and

(ii) the person making the records has given the prescribed notice of his intention to make the records, and has paid in the prescribed manner to the owner of the copyright in the work royalties in respect of all such records to be made by him, at the rate fixed by the Copyright Board in this behalf:

Provided that in making the records such person shall not make any alterations in, or omissions from, the work, unless records recording the work subject to

similar alterations and omissions have been previously made by, or with the licence or consent of, the owner of the copyright or unless such alterations and omissions are reasonably necessary for the adaptation of the work to the records in question ;

(k) the causing of a recording embodied in a record to be heard in public by utilising the record,-

(i)at any premises where persons reside, as part of the amenities provided exclusively or mainly for residents therein, or

(ii)as part of the activities of a club, society or other organisation which is not established or conducted for profit ;

(l) the performance of a literary, dramatic or musical work by an amateur club or society, if the performance is given to a non-paying audience, or for the benefit of a religious institution;

(m) the reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topics, unless the author of such article has expressly reserved to himself the right of such reproduction ;

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(n) the publication in a newspaper, magazine or other periodical of a report of a lecture delivered in public;

(o) the making of not more than three copies of a book (including a pamphlet, sheet of music, map, chart or plan) by or under the direction of the person in charge of a public library for the use of the library if such book is not available for sale in India ;

(p) the reproduction, for the purpose of research or private study or with a view to publication, of an unpublished literary, dramatic or musical work kept in a library, museum or other institution to which the public has access:

Provided that where the identity of the author of any such work or, in the case of a work of joint authorship, of any of the authors is known to the library, museum or other institution, as the case may be the provisions of

this clause shall apply only if such reproduction is made at a time more than fifty years from the date of the death of the author or, in the case of a work of joint authorship, from the death of the author whose identity is known or, if the identity of more authors than one is known from the death of such of those authors who dies last ;

(q) the reproduction or publication of--

(i) any matter which has been published in any Official Gazette except an Act of a Legislature ;

(ii) any Act of a Legislature subject to the condition that such Act is reproduced or published together with any commentary thereon or any other original matter;

(iii) the report of any committee, commission, council, board or other like body appointed by the Government if such report has been laid on the Table of the Legislature, unless the reproduction or publication of such report is prohibited by the Government;

(iv) any judgment or order of a court, tribunal or other judicial authority, unless the reproduction or publication of such judgment or order is prohibited by the court, the tribunal or other judicial authority, as the case may be;

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(r) the production or publication of a translation in any Indian language of an Act of a Legislature and of any rules or orders made thereunder-

(i) if no translation of such Act or rules or orders in that language has previously been produced or published by the Government; or

(ii) where a translation of such Act or rules or orders in that language has been produced or published by the Government, if the translation is not available for sale to the public:

Provided that such translation contains a statement at a prominent place to the effect that the translation has not been authorised or accepted as authentic by the Government;

(s) the making or publishing of a painting, drawing, engraving or photograph of an architectural work of art;

(t) the making or publishing of a painting, drawing, engraving or photograph of a sculpture, or other artistic work falling under sub-clause (iii) of clause (c) of section

2, if such work is permanently situate in a public place or any premises to which the public has access;

(u) the inclusion in a cinematograph film; of-

(i) any artistic work permanently situate in a public place or any premises to which the public has access or

(ii) any other artistic work, if such inclusion is only by way of background or is otherwise incidental to the principal matters represented in the film;

(v) the use by the author of an artistic work, where the author of such work is not the owner of the copyright therein, of any mould, cast, sketch, plan, model or study made by him for the purpose of the work:

Provided that he does not thereby repeat or imitate the main design of the work ;

(w) the making of an object of any description, in three dimensions of an artistic work in two dimensions, if the object would not appear, to persons who are not experts in relation to objects of that description, to be a reproduction of the artistic work ;

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(x) the reconstruction of a building or structure in accordance with the architectural drawings or plans by reference to which the building or structure was originally constructed:

Provided that the original construction was made with the consent or licence of the owner of the copyright in such, drawings and plans;

(y) in relation to a literary, dramatic or musical work recorded or reproduced in any cinematograph film, the exhibition of such film after the expiration of the term of copyright therein:

Provided that the provisions of sub-clause (ii) of clause (a), sub-clause (i) of clause (b) and clauses (d), (f), (g), (m) and (p) shall not apply as respects any act unless that act is accompanied by an acknowledgment-

(i) identifying the work by its title or other description ; and

(ii) unless the work is anonymous or the author of the work has previously agreed or required that no acknowledgement of his name should be made, also identifying the author.

(2) The provisions of sub-section (1) shall apply to the doing of any act in relation to the translation of a literary, dramatic or musical work or the adaptation of a literary, dramatic, musical or artistic work as they apply in relation to the work itself.

52A. (1) Particulars to be included in records and video films. No person shall publish a record in respect of any work unless the following particulars are displayed on the record and on any container thereof namely:-

(a) the name and address of the person who has made the record;

(b) the name and address of the owner of the copyright in such work; and

(c) the year of its first publication.

(2) No person shall publish a video film in respect of any work unless the following particulars are displayed in the video film, when exhibited, and on the video cassette-or other container thereof, namely: -

(a) if such work is a cinematograph film required to be certified for exhibition under the provisions of the Cinematograph Act, 1952, a copy of the certificate granted by the Board of Film Certification under section 5A of that Act in respect of such work;

(b) the name and address of the person who has made the video film and a declaration by him that he has obtained the necessary licence or consent from the owner of the cop in such work for making such video film-, and

(c) the name and address of the owner of the copyright in such work.

53.

Importation of infringing copies.

53. (1) Importation of infringing copies. The Registrar of Copyrights, on application by the owner of the copyright in any work or by his duly authorised agent and on payment of the prescribed fee, may, after making such inquiry as he deems fit, order that copies made out of India of the work which if made in India would infringe copyright shall not be imported.

(2) Subject to any rules made under this Act, the Registrar of Copyrights or any person authorised by him in this behalf may enter any ship, dock or premises where any such copies as are referred to in sub-section (1) may be found and may examine such copies.

(3) All copies to which any order made under subsection, apply shall be deemed to be goods of which the import has been prohibited or restricted under section 11 of Customs Act, 1962 and all the provisions of that Act shall have effect accordingly: (8 of 1878).

Provided that all such copies confiscated under the provisions of the said Act shall not vest in the Government but shall be delivered to the owner of the copyright in the work.

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CIVIL REMEDIES

CHAPTER XII

CIVIL REMEDIES

54.

Definition.

54.Definition. For the purposes of this Chapter, unless the context otherwise requires, the expression "owner of copyright" shall include-

(a) an exclusive licensee;

(b) in the case of an anonymous or pseudonymous literary, dramatic, musical or artistic work, the publisher of the work, until the identity of the author or, in the case of an anonymous work of joint authorship, or a work of joint authorship published under names all of which are pseudonyms, the identity of any of the authors, is disclosed publicly by the author and the publisher or is otherwise established to the satisfaction of the Copyright Board by that author or his legal representatives.

55.

Civil remedies for infringement of copyright.

55. (1)Civil remedies for infringement of copyright. Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as

are or may be conferred by law for the infringement of a right:

Provided that if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for believing that copyright subsisted in the work, the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement and a decree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the court may in the circumstances deem reasonable.

(2) Where, in the case of a literary, dramatic, musical or artistic work, a name purporting to be that of the author or the publisher, as the case may be, appears on copies of the work as published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceeding in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be.

(3) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the discretion of the court.

56.

Protection of separate rights.

56. Subject to the provisions of this Act, where the several rights comprising the copyright in any work are owned by different persons,

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the owner of any such right shall, to the extent of that right, be entitled to the remedies provided by this Act and may individually enforce such right by means of any suit, action or other proceeding without making the owner of any other right a party to such suit, action or proceeding.

57.

Author's special rights.

57.(1) Author's special rights. Independently of the author's copyright, and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right to claim the authorship of the work as well as the right to restrain, or claim damages in respect of,-

(a) any distortion, mutilation or other modification of the said work; or

(b) any other action in relation to the said work which would be prejudicial to his honour or reputation.

(2) The right conferred upon an author of a work by sub-section (1), other than the right to claim authorship of the work, may be exercised by the legal representatives of the author:

58.

Right of owner against persons possessing or dealing with infringing copies.

58. Right of owner against persons possessing or dealing with infringing copies. All infringing copies of any work in which copyright subsists, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of possession thereof or in respect of the conversion thereof:

Provided that the owner of the copyright shall not be entitled to any remedy in respect of the conversion of any infringing copies, if the opponent proves-

(a) that he was not aware and had no reasonable ground to believe that copyright subsisted in the work of which such copies are alleged to be infringing copies ; or

(b) that he had reasonable grounds for believing that such copies or plates do not involve infringement of the copyright in any work.

59.

Restriction on remedies in the case of works of architecture.

59. (1) Restriction on remedies in the case of works of architecture. Notwithstanding anything contained in the Specific Relief Act 1963, where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction to restrain the construction of such building or structure or to order its demolition. (1 of 1877).

1 Subs. by Act 23 of 1983, s.20 (w.e.f. 9.8.1984)

(2) Nothing in section 58 shall apply in respect of the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work.

60.

Remedy of the case of groundless threat of legal proceedings.

60. Remedy of the case of groundless threat of legal proceedings. Where any person claiming to be the owner of copyright in any work, by circulars, advertisements or otherwise, threatens any other person with any legal proceedings or liability in respect of an alleged infringement of the copyright, any person aggrieved thereby may, notwithstanding anything contained in section 34 of the Specific Relief Act, 1963 institute a declaratory suit that the alleged infringement to which the threats related was not in fact an infringement of any legal rights of the person making such threats and may in any such suit-

(a) obtain an injunction against the continuance of such threats ; and

(b) recover such damages, if any, as he has sustained by reason of such

THE CRIMINAL LAW AMENDMENT ACT, 1932

ACT NO. 23 OF 1932

[19th December, 1932.]

An Act to supplement the criminal law.

WHEREAS it is expedient to supplement the criminal law and to that end to amend the Indian Press (Emergency Powers) Act, 1931 (23 of 1931), and further to amend * * * the Indian Criminal Law Amendment Act, 1908 (14 of 1908), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1.

Short title, extent, duration and commencement.

1. Short title, extent, duration and commencement. (1) This Act may be called the Criminal Law Amendment Act, 1932.

2 [(2) It extends to the whole of India except 3[the

territories which, immediately before the 1st November, 1956, were comprised in Part B States].]

4* * * * *

(4) The whole of the Act except 5* * * section 7 shall come into force at once, and the State Government may, by notification in the Official Gazette direct that 7* * * section 7 shall come into force in any area on such date as may be specified in the notification.

1 The word " temporarily " rep. by the Criminal Law Amendment Act, 1935, s. 3.

2 Subs. by the A. O. 1950, for the former sub-section.

3 Subs. by the Adaptation of Laws (No. 3) Order, 1956, for " Part B States".

4 Sub-section (3), limiting the duration of the Act to three years from commencement, rep. by Criminal Law Amendment Act, 1935, s. 2.

5 The words and figure " section 4 and" rep. by s. 4, *ibid.*

6 S. 7 was brought into force in-

Former Province of Bihar and Orissa, from 26th December, 1932: see B. & O. Gazette, Extraordinary, dated 26th December, 1932 ;

The Delhi Province, from 24th December, 1932: see Gazette of India, Extraordinary, 1932, p. 429 ;

The City of Bombay, the Bombay Suburban district and the districts of Kaira, Ahmednagar, East Khandesh, West Khandesh, Ratnagiri and Kanara, from 29th December, 1932: see Bombay Gazette, Extraordinary, dated 27th December, 1932;

Amritsar district, from 31st December, 1932: see Punjab Gazette, Extraordinary, 1932, p. 163 ;

The districts of Cachar, Goalpara, Kamrup, Darrang, Nowgong, Sib-sagar and Lakhimpur, from 7th January, 1933: see Assam Gazette, Extraordinary, dated 7th January, 1933 ;

Ajmer-Merwara, from 30th September, 1933: see Gazette of India, 1933, Pt. II-A, p. 716.

7 The words and figure "section 4 or" rep. by the Criminal Law Amendment Act, 1935, s. 4.

Am. in Bombay by Bom. Act 2407 1959.

Extended to Pondicherry (with modifications): vide G.S.R. 200.
dt. 7-2-1957, Gaz. of India, Pt. II, Sec. 3(i), p. 230

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Extended to Goa, Daman and Diu (with modification): vide G.S.R.
863 dt. 2-6-66, Gaz. of India, Ex., pt. II, Sec. 3(i), p. 389.

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2 to

Dissuasion from enlistment. Tampering with public Boycotting a
publicservant.

2 to 4. [Dissuasion from enlistment. Tampering with public
servants. Boycotting a public servant.] Rep. by the Criminal Law
Amendment Act, 1935, s. 2.

5.

Dissemination of contents of prescribed document.

5. Dissemination of contents of prescribed document. (1)
Whoever publishes, circulates or repeats in public any passage from a
newspaper, book or other document copies whereof have been declared to
be forfeited to Government under any law for the time being in force,
shall be punished with imprisonment for a term which may extend to six
months, or with fine, or with both.

(2) No Court shall take cognizance of an offence punishable
under this section unless the State Government has certified that the
passage published, circulated or repeated contains, in the opinion of
the State Government, seditious or other matter of the nature referred
to in sub-section (1) of section 99A of the Code of Criminal
Procedure, 1898 (5 of 1898) or sub-section (1) of section 4 of the
Indian Press (Emergency, Powers) Act, 1931 (23 of 1931),

6.

Dissemination of false rumours.

6. [Dissemination of false rumours.] Rep. by the Criminal Law

Amendment Act, 1935, s. 2.

7.

Molesting a person to prejudice of employment or business.

7. Molesting a person to prejudice of employment or business.
(1) Whoever-

(a) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or

(b) loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation.-Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section is not an offence under this section.

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(2) No Court shall take cognizance of an offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police-officer not below the rank of officer in charge of a police-station.

8.

Power to order parent or guardian to pay line imposed on young person.

8. [Power to order parent or guardian to pay line imposed on young person.] Rep. by the Criminal Law Amendment Act, 1935, s. 2.

9.

Procedure in offences under the Act.

9. Procedure in offences under the Act. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898),

(i) no Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act ;

(ii) an offence punishable under sections 1* * * 5* * * * or 7 shall be cognizable by the police;

2* * * * *and

(iv) an offence punishable under section 7 shall be non-bailable.

10.

Power of State Government to make certain offences cognizable and non-bailable.

10. Power of State Government to make certain offences cognizable and non-bailable. (1) The State Government may, by notification in the Official Gazette, declare that any offence punishable under section 186, 188, 189, 190, 228, 295A, 298, 505, 506 or 507 of the Indian Penal Code (45 of 1860), when committed in any area specified in the notification shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), be cognizable, and thereupon the Code of Criminal Procedure, 1898 (5 of 1898), shall, while such notification remains in force, be deemed to be amended accordingly.

(2) The State Government may, in like manner and subject to the like conditions, and with the like effect, declare that an offence punishable under section 188 or section 506 of the Indian Penal Code (45 of 1860). shall be non-bailable.

11 t

Amendment of s. 16, Act 14 of 1908. Amendment of s. 17, Act 14 of 1908.

Insertion of new ss. 17A to 17F in Act 14 of 1908. Amendment of title and preamble of Act 23 of 1931.

11 to 14. [Amendment of s. 16, Act 14 of 1908. Amendment of s. 17, Act 14 of 1908. Insertion of new ss. 17A to 17F in Act 14 of 1908. Amendment of title and preamble of Act 23 of 1931.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

1 The figures "2" "3 " and "6 " were rep. by the Criminal Law Amendment Act, 1935, s. 5.

2 Cl. (iii) was rep. by s. 5, *ibid.*

3 For such notifications, as to the former Province of Bihar and Orissa, see B. & O. Gazette, Extraordinary, dated 26th December, 1932 ; and as to the former Presidency of Bombay, see Bombay Gazette, Extraordinary, dated 27th December, 1932.

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15.

Amendment of s. 1, Act 23 of 1931.

15. [Amendment of s. 1, Act 23 of 1931.] Rep. by the Criminal Law Amendment Act, 1935, s. 2.

16.

Amendment of s. 4, Act 23 of 1931.

16. [Amendment of s. 4, Act 23 of 1931.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

17.

Cessation of effect of s. 62, Ordinance 10 of 1932.

17. [Cessation of effect of s. 62, Ordinance 10 of 1932.] Rep. by the Criminal Law Amendment Act, 1935, s. 2.

18.

Adoption and continuance of action taken under Ordinance 10 of 1932.

18. Adoption and continuance of action taken under Ordinance 10 of 1932. Anything done or any proceedings commenced in pursuance of the provisions of Chapter VI of the Special Powers Ordinance, 1932 (10 of 1932), shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corres-

pending provisions of the Indian Criminal Law Amendment Act, 1908 (45 of 1908), as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced.

19.

Adoption and continuance of action taken under Act 23 of 1931 as amended by Ordinance 10 of 1932.

19. Adoption and continuance of action taken under Act 23 of 1931 as amended by Ordinance 10 of 1932. Anything done or any proceedings commenced in pursuance of the provisions of the Indian Press (Emergency Powers) Act, 1931 (23 of 1931), as amended by section 77 of the Special Powers Ordinance, 1932 (10 of 1932), shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced.

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Trial of, and completion of trials of, offences against Ordinance 10 of 1932.

20. [Trial of, and completion of trials of, offences against Ordinance 10 of 1932.] Rep. by the Criminal Law Amendment Act, 1935, s. 2.

THE CRIMINAL LAW AMENDMENT ACT, 1961

ACT NO. 23 OF 1961

[17th May, 1961.]

An Act to supplement the criminal law.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows: -

1.

Short title and extent.

1. (1) Short title and extent. This Act may be called the Criminal Law Amendment Act, 1961.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2.

Questioning the territorial integrity or frontiers of India in a manner prejudicial to the interests of safety and security of India.

2. Questioning the territorial integrity or frontiers of India in a manner prejudicial to the interests of safety and security of India. (1) Whoever by words either spoken or written, or by signs, or by visible representation or otherwise, questions the territorial integrity or frontiers of India in a manner which is, or is likely to be, prejudicial to the interests of the safety or security of India, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

1*[(2) Whoever publishes a map of India, which is not in conformity with the maps of India as published by the Survey of India, shall be punishable with imprisonment which may be extend to six months, or with fine, or with both.

(3) No court shall take cognizance of an offence punishable under sub-section (2), except on a complaint made by the Government.]

3.

Statements, etc., in a notified area prejudicial to maintenance of public order, etc., therein or to safety or security of India and regulation entry of persons in such area.

3. Statements, etc., in a notified area prejudicial to maintenance of public order, etc., therein or to safety or security of India and regulation entry of persons in such area. (1) If the Central Government considers that in the interests of the safety or security of India or in the public interest, it is necessary or expedient so to do, it may, by notification in the Official Gazette, declare any area adjoining the frontiers of India to be a notified area ; and thereupon, for so long as the notification is in force, such area shall be a notified area for the purposes of this section.

(2) Whoever makes, Publishes or circulates in any notified area any statement, rumour or report which is, or is likely to be, prejudicial to the maintenance of public order or essential supplies or services in the said area or to the interests of the safety or security of India, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(3) On and after such day as may be specified in, and subject to

any exemptions for which provision may be made by, a notification issued under sub-section (1), no person who was not immediately before the said day a resident in the area declared to be a notified area by the notification shall enter or attempt to enter that area or be therein except in accordance with the terms of a permit in writing granted to him by a person, not below the rank of a magistrate of the first class, specified in the said notification.

1 Renumbered and ins. by Act 9 of 1990, S. 2.

Extended to and brought into force in Dadra and Nagar Haveli (w.e.f. 1.7.65) by Reg. 6 of 1963, S. 2 & Sch.I.

Extended to Goa, Daman and Diu with modifications, by Reg.12 of 1962, S. 3 and Sch.

The Act comes into force in Pondicherry on 1.10.1963 vide Reg. 7 of 1963, S. 3 and Sch.

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(4) Any police officer, not below the rank of sub-inspector of police, may search any person entering or attempting to enter, or being in, or leaving, a notified area and any vehicle, vessel, animal or article brought in by such person, and may, for the purpose of the search, detain such person, vehicle, vessel, animal or article:

Provided that no woman shall be searched in pursuance of this sub-section except by a woman authorised in this behalf by the police officer.

(5) If any person is in a notified area in contravention of the provisions of sub-section (3), then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any police officer on duty in the notified area, not below the rank of sub-inspector of police.

(6) If any person enters or attempts to enter a notified area or is therein in contravention of any of the provisions of sub-section (3), he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

4.

Power to declare certain publications forfeited and to issue searchwarrants for the same.

4. Power to declare certain publications forfeited and to issue search warrants for the same. (1) Where any newspaper or book as defined in the Press and Registration of Books Act, 1867 (25 of 1867), or any other document, wherever printed, appears to the State Government to contain any matter the publication of which is punishable under section 2 or sub-section (2) of section 3, the State Government may, by notification in the Official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter and every copy of such book or other document to be forfeited to the Government, and thereupon any police officer may seize the same wherever found and any magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any copy of such book or other document may be or may be reasonably suspected to be.

(2) The powers conferred by sub-section (1) on the State Government may also be exercised by the Central Government.

(3) In sub-section (1) " document " includes also any painting, drawing or photograph, or other visible representation.

5.

Application to High Court to set aside order of forfeiture.

5. Application to High Court to set aside order of forfeiture. (1) Any person having any interest in any newspaper, book or other document in respect of which an order of forfeiture has been made under section 4 may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the issue of the newspaper or the book or other

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document in respect of which the order was made did not contain any matter of such a nature as is referred to in sub-section (1) of section 4.

(2) The provisions of sections 99C to 99F of the Code of Criminal Procedure, 1898 (5 of 1898), shall apply in relation to an application under subsection (1) as they apply in relation to an application under section 99B of that Code and the reference in section 99D to seditious or other matter of such a nature as is referred to in sub-section (1) of section 99A of that Code shall be construed as a reference to any matter of such a nature as is referred to in sub-section (1) of section 4 of this Act.

(3) No order passed or action taken under section 4 shall be called in question in any court otherwise than in accordance with the

provisions of this section.