

(9) Notwithstanding anything contained in paragraph (g) of subsection (1) of section 9, the public display of originals or copies of works shall be permitted without the authorization of the owner of copyright :

Provided that the display is made other than by means of a film, slide, television image or otherwise on screen or by means of any other device or process :

Provided further, the work has been published or the original or the copy displayed has been sold, given away or otherwise transferred to another person by the author or his successor in title.

(10) Notwithstanding anything contained in this Part, the following shall not be an infringement of copyright :—

- (a) the performance or display of a work for educational or teaching purposes by government or non profit educational institutions, in classrooms or similar places set aside for education :

Provided that, in the case of an audiovisual work, the performance or the display of individual images, is given by means of a lawfully made copy, or the person responsible for the performance did not know or had no reason to believe that the copy was not lawfully made.

- (b) the communication of a transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus, of a kind commonly used in private homes, unless —
 - (i) a direct charge is made to see or hear the transmission ; or
 - (ii) the transmission thus received is further transmitted to the public.

13. (1) Subject to the provisions of subsections (2), (3), (4) and (5), the economic and moral rights shall be protected during the life time of the author and for a further period of seventy years from the date of his death.

Duration of
copyright.

(2) In the case of a work of joint authorship, the economic and moral rights shall be protected during the life of the last surviving author and for a further period of seventy years from the date of the death of the last surviving author.

(3) In the case of a collective work, other than a work of applied art, and in the case of an audiovisual work, the economic and moral rights shall be protected for seventy years from the date on which the work was first published, or failing publication within seventy years from the making of the work.

(4) In the case of a work published anonymously or under a pseudonym, the economic and moral rights shall be protected for seventy years from the date on which the work was first published :

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

(5) In the case of work of applied art, the economic and moral rights shall be protected for twenty-five years from the date of the making of the work.

(6) Every period provided for under the preceding subsections shall run to the end of the calendar year in which it would otherwise expire.

14. (1) Subject to the provisions of subsections (2), (3), (4) and (5), of this section, the author who created the work shall be the original owner of economic rights.

Original
ownership of
economic rights.

(2) In respect of a work of joint authorship, the co-authors shall be the original owners of the economic rights. If, however, a work of joint authorship consists of parts that can be used separately and the author of each part can be identified, the author of each part shall be the original owner of the economic rights in respect of the part that he has created.

(3) In respect of a collective work, the physical person or legal entity at the initiative, and under the direction, of whom or which the work has been created shall be the original owner of the economic rights.

(4) In respect of a work created by an author employed by a physical person or legal entity in the course of his employment, the original owner of the economic rights shall, unless provided otherwise by way of a contract, be the employer. If the work is created pursuant to a commission, the original owner of economic rights shall be, unless otherwise provided in a contract, the person who commissioned the work.

(5) In respect of an audiovisual work, the original owner of the economic rights shall be the producer, unless otherwise provided in a contract. The co-authors of the audiovisual work and the authors of the pre-existing works, included in, or adapted for, the making of the audiovisual work shall, however, maintain their economic rights in their contributions or pre-existing works, respectively, to the extent that those contributions or pre existing works can be the subject of acts covered by their economic rights separately from the audiovisual work.

Presumption of authorship and of representation of the author.

15. (1) The physical person whose name is indicated as the author on a work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the author of the work. The provisions of this section shall be applicable even if the name is a pseudonym, where the pseudonym leaves no doubt as to the identity of the author.

(2) The physical person or legal entity whose name appears on an audio-visual work shall, in the absence of proof to the contrary, be presumed to be the producer of the said work.

16. (1) The owner of a copyright may -

Assignment or
licence of
author's rights.

- (a) grant licence to a physical person or legal entity to carry out all or any of the acts relating to the economic rights referred to in section 9 ;
- (b) assign or transfer in whole or any part of the economic rights referred to in section 9.

(2) Any assignment or transfer of an economic right, and any licence to do such an act subject to authorization by the owner of the copyright, shall be in writing signed by the assignor and the assignee, transferor and the transferee or by the licensor and the licensee, as the case may be.

(3) An assignment or transfer in whole or in part of any economic right, or a licence to do an act subject to authorization by the owner of copyright, shall not include or be deemed to include the assignment or transfer or licence in respect of any other rights not expressly referred to therein.

CHAPTER II

RELATED RIGHTS

[PROTECTION OF RIGHTS OF PERFORMERS, PRODUCERS OF SOUND
RECORDING AND BROADCASTING ORGANIZATION]

17. (1) Subject to the provisions of section 21, a performer shall have exclusive right to carry out or to authorize any of the following acts :—

Rights requiring
authorization of
performers.

- (a) the broadcasting or other communication to the public of his performance or a substantial part thereof, except where the broadcasting, or the other communication—
 - (i) is made from a fixation of the performance, other than a fixation made in terms of section 21 ; or

(ii) is a re-broadcasting, made or authorized by the organisation initially broadcasting the performance or substantial part thereof ;

(b) the fixation of his unfixed performance or substantial part thereof ;

(c) the reproduction of a fixation of his performance or substantial part thereof.

(2) Once the performer has authorized the incorporation of his performance in a audiovisual fixation, the provisions of subsection (1) shall have no further application.

(3) Nothing in this section shall be construed to deprive performers of the right to enter into contracts in respect of their performances on terms and conditions more favourable to them.

(4) The rights under this section shall be protected from the moment the performance takes place until the end of the fiftieth calendar year following the year in which the performance takes place.

Rights of
producers of
sound recordings.

18. (1) Subject to the provisions of section 21, a producer of a sound recording shall have the exclusive right to carry out or to authorise any of the following acts :—

(a) the direct or indirect reproduction of the sound recording or substantial part thereof ;

(b) the importation of copies of the sound recording or a substantial part thereof even where such imported copies were made with the authorisation of the producer ;

(c) the adaptation or other transformation of the sound recording or a substantial part thereof ;

(d) the rental of a copy of the sound recording or a substantial part thereof, irrespective of the ownership of the copy rented ;

- (e) the sale or offering for sale to the public of the original or copies of the sound recording or substantial part thereof.

(2) The rights under subsection (1) of this section shall be protected from the date of publication of the sound recording until the end of the fiftieth calendar year following the year of publication, or if the sound recording has not been published, from the date of fixation of the sound recording until the end of fiftieth calendar year following the year of fixation.

19. (1) where a sound recording published for commercial purposes, or a reproduction of such sound recording, is used directly for broadcasting or other form of communication to the public, or is publicly performed, a single equitable remuneration for the performer or performers and the producer of the sound recording shall be paid by the user.

Equitable remuneration for use of sound recordings.

(2) Unless otherwise agreed between the performer or the producer, half of the sum received by the producer under subsection (1) shall be paid by the producer to any performer.

(3) The right to an equitable remuneration under this section shall subsist from the date of publication of the sound recording until the end of the fiftieth calendar year following the year of publication, or if the sound recording has not been published, from the date of fixation of the sound recording until the end of the fiftieth calendar year following the year of fixation.

20. (1) Subject to the provisions of section 21, a broadcasting organisation shall have the exclusive right to carry out or to authorize any of followings acts :—

Rights of broadcasting organisation.

- (a) the re-broadcasting of its broadcast or a substantial part thereof ;
- (b) the communication to the public of its broadcast or a substantial part thereof ;

- (c) the fixation of its broadcast or a substantial part thereof ;
- (d) the reproduction of a fixation of its broadcast or a substantial part thereof.

(2) The rights under this section shall be protected from the moment when the broadcasting takes place until the end of the fiftieth calender year following the year in which broadcast takes place.

Limitations on protection.

21. Sections 17, 18, 19 and 20 shall not apply where the acts referred to in those sections are related to—

- (a) the use by a physical person exclusively for his own personal purposes ;
- (b) using short excerpts for reporting current events to the extent justified by the purpose of providing current information ;
- (c) use solely for the purpose of face to face teaching activities or for scientific research ;
- (d) cases where, under copyright, a work can be used without the authorization of the owner of copyright.

Enforcement of rights and disputes resolution.

22. (1) Any person who infringes or is about to infringe any of the rights protected under this Part may be prohibited from doing so by way of an injunction and be liable to damages. The owner of such rights is entitled to seek such other remedy as the court may deem fit.

- (2) (a) The Court shall have power and jurisdiction—
 - (i) to grant such injunctions to prohibit the commission of any act of, infringement or the continued commission of such acts of infringement of any right protected under this Part ;

- (ii) to order the impounding of copies of works or sound recordings suspected of being made sold, rented or imported without the authorization of the owner of any right protected under this Part where the making, selling, renting or importation of copies is subject to such authorization, as well as the impounding of the packaging of, the implements that could be used for the making of, and the documents, accounts or business papers, referring to, such copies.

(b) The Court shall in addition have the jurisdiction to order the payment by the infringer, of damages for the loss suffered as a consequence of the act of infringement, as well as the payment of expenses caused by the infringement, including legal costs. The amount of damages shall be fixed taking into account *inter alia*, the importance of the material and moral prejudice suffered by the owner of the right, as well as the importance of the infringer's profits attributable to the infringement. Where the infringer did not know or had no reasonable cause to know that he or it was engaged in infringing activity, the court may limit damages to the profits of the infringer attributable to the infringement or to pre established damages.

(c) The Court shall have the authority to order the destruction or other reasonable manner of disposing of copies made in infringement of any right protected under this Part if available and their packaging outside the channels of commerce in such a manner as would avoid harm to the owner of the rights, unless he requests otherwise. The provisions of this section shall not be applicable to copies and their packaging which were acquired by a third party in good faith.

(d) Where there is a danger that implements may be used to commit or continue to commit acts of infringement, the Court shall, whenever and to the extent that it is reasonable, order their destruction or other reasonable manner of disposing of the same outside the channels of commerce in such a manner as to minimize the risks of further infringements, including surrender to the owner of the rights.

(e) Where there is a danger that acts of infringement may be continued, the court shall make such orders as may be necessary prevent such acts being committed.

(f) The provisions of Chapter XXXV of this Act relating to infringement and remedies shall apply, *mutatis mutandis*, to rights protected under this Part.

(g) Any person who infringes or attempts to infringe any of the rights protected under this Part shall be guilty of an offence and on conviction be liable to any penalty as provided for in Chapters XXXVIII and XLI of the Act.

(3) (a) The Director-General may on an application being made in the prescribed form and manner by a person aggrieved by any of his rights under this Part being infringed or in any other manner affected, and after such inquiry as he thinks fit determine any question that may be necessary or expedient to determine in connection with such application and such decision shall be binding on the parties subject to the provisions of paragraph (b) of this subsection.

(b) Any person aggrieved by the decision of the Director-General may make an appeal to the Court and unless the Court issues an interim order staying the operation of the decision of the Director-General, such decision shall continue to be in force until the matter is decided by the Court.

23. (1) The following acts shall be considered unlawful and in the application of section 22 shall be assimilated to infringements of the rights of the owner of copyright :—

- (i) the manufacture or importation for sale or rental of any device or means specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work or to impair the quality of copies made (the latter device or means hereinafter referred to as “copy protection or copy management device or means”) ;

Measures,
remedies and
sanctions against
abuses in respect
of technical
means.

- (ii) the manufacture or importation for sale or rental of any device or means that is susceptible to enable or assist the reception of an encrypted program, which is broadcast or otherwise communicated to the public, including reception by satellite, by those who are not entitled to receive the program.

(2) In the application of section 22, any illicit device and means mentioned in subsection (1) of this section shall be assimilated to infringing copies of works.

(3) The owner of copyright in a work shall also be entitled to the damages for infringement provided for in section 22 where—

- (a) authorized copies of the work have been made and offered for sale or rental in an electronic form combined with a copy protection or copy management device or means, and a device or means specifically designed or adapted to circumvent the said device or means, made or imported for sale or rental ;
- (b) the work is authorised for inclusion in an encrypted program, broadcast or otherwise communicated to the public, including by satellite, and a device or means enabling or assisting the reception of the program by those who are not entitled to receive the program made or imported, for sale or rental.

24. (1) Subject to the provision of subsection (4) of this section expressions of folklore shall be protected against—

Protection of expressions of folklore and damages.

- (a) reproduction ;
- (b) communication to the public by performance, broadcasting, distribution by cable or other means ;
- (c) adaptation, translation and other transformation, when such expressions are made either for commercial purposes or outside their traditional or customary context.

(2) The rights conferred by subsection (1) of this section shall not apply where the acts referred to therein are related to –

- (a) the use by a physical person exclusively for his own personal purposes ;
- (b) using short excerpts for reporting current events to the extent justified by the purpose of providing current information ;
- (c) the use solely for the purpose of face to face teaching or for scientific research ;
- (d) instances referred to in sections 11 and 12, where a work can be used without the authorization of the owner of copyright.

(3) In all printed publications, and in connection with any communication to the public of any identifiable expression of folklore, its source shall be indicated in an appropriate manner and in conformity with fair practice by mentioning the community or place from where the expression utilized has been derived.

(4) The right to authorize acts referred to in subsection (1) of this section shall subject to the payment of a prescribed fee, vest in a Competent authority to be determined by the Minister.

(5) The money collected under subsection (4) shall be used for purposes of cultural development.

(6) Any person who, without the permission of the Competent Authority referred to in subsection (4), uses an expression of folklore in a manner not permitted by this section shall be in contravention of the provisions of this section and shall be liable to damages, and be subject to an injunctions and any other remedy as the Court may deem fit to award in the circumstances.

25. (1) (a) No person or body of persons corporate or unincorporate shall, after the coming into operation of this Act, commence or carry on the business of issuing or granting licences in respect of any right protected under this Part except under or in accordance with, the provisions of paragraph (c) of this subsection :

Registration of society, administration of rights by societies, control over the rights and submission of report.

Provided that the owner of such right shall, in his individual capacity, continue to have the right to grant licences in respect of his own rights. Where such owner is a member of a society registered under this section the grant of such licences shall be consistent with his obligations as a member of such society.

(b) Any body of persons corporate or unincorporate which fulfils such conditions as may be prescribed, apply to the Director-General for permission to engage in the business specified in paragraph (a) and register the society.

(c) The Director-General may having regard to the interests of the owners of the rights protected under this Part, the interests and convenience of the public and in particular of the groups of persons who are most likely to seek licences in respect of relevant rights and the ability and professional competence of the applicant to grant permission to commence or carry on business specified in paragraph (a) of subsection (1) and register such person or body of persons as a collective society subject to such conditions as may be prescribed :

Provided that the Director-General shall not ordinarily register more than one such society to do business in respect of the same class of rights.

(d) The Director-General may, if he is satisfied that the society is being managed in a manner detrimental to the interests of the owners of rights concerned, cancel or suspend the registration of the society and the permission to commence or carry on business as specified in paragraph (a) of this subsection, after such inquiry as may be necessary.

(e) The Director-General may by order cancel or suspend the registration of such society and the permission to carry on business pending inquiry for such period not exceeding one year as may be specified in such order under paragraph (d) of this subsection.

(f) Where the Director-General suspends the registration of a society, he shall thereupon appoint an administrator to carry out the functions of the society.

(2) (a) Subject to such conditions as may be prescribed—

- (i) a society may accept from an owner of the rights exclusive authorization to administer any right under this Part by the issue of licences or collection of licence fees or both ; and
- (ii) an owner of the rights shall have the right to withdraw such authorization without prejudice to the rights of the society under any contract between such owner and society.

(b) It shall be competent for a society to enter into any agreement with any foreign society or organization administering rights corresponding to the rights protected under this Part, and to entrust to such foreign society or organization the administration in any foreign country of rights administered by the said society in Sri Lanka, or for administering in Sri Lanka the rights administered in a foreign country by such foreign society or organization :

Provided that no such society or organization shall permit any discrimination in regard to the terms of a licence or the distribution of fees collected in connection with the rights protected under this Part and in such foreign country.

(c) Subject to such conditions as may be prescribed, a society may –

- (i) issue licences in respect of any rights protected under this Part ;

- (ii) collect fees in pursuance of such licences ;
- (iii) distribute such fees among owners of rights after making deductions for its own expenses ;
- (iv) perform any other functions consistent with the provisions of subsection (4).

(3) (a) Every society shall be subject to the collective control of the owners of rights under this Part whose rights are administered in such a manner as may be prescribed in order to —

- (i) obtain the approval of such owners of rights for its procedures of collection and distribution of fees ;
- (ii) obtain their approval for the utilization of any amounts collected as fees for any purpose other than distribution to the owner of rights ; and
- (iii) provide to such owners regular, full and detailed information concerning all its activities, in relation to the administration of their rights.

(b) All fees distributed among the owners of rights shall, as far as may be, be distributed in proportion to the actual use of their works.

(4) (a) Every Society shall submit to the Director-General such returns as may be prescribed.

(b) The Director-General may call for any report or records of any society for the purpose of satisfying himself that the fees collected by the society in respect of the rights administered by it are being utilized or distributed in accordance with the provisions of this Part.

26. (1) The provisions of this Part in respect of the protection of literary, artistic or scientific works shall apply to —

Scope of application.

- (a) works of authors who are nationals of , or have their habitual residence in, Sri Lanka ; and

- (b) works first published in Sri Lanka, works first published in another country and hereupon published in Sri Lanka, within thirty days from such publication, irrespective of the nationality or residence of the author.

(2) The provisions of this Part shall also apply to works that are protected in Sri Lanka by virtue of, and in accordance with, any international convention or any international agreement to which Sri Lanka is a party.

Protection of performers.

27. (1) The provisions of this Part in respect of protection of performers shall apply to—

- (a) performers who are nationals of Sri Lanka ;
- (b) performers who are not nationals of Sri Lanka but whose performances :—
 - (i) take place on the territory of Sri Lanka ; or
 - (ii) are incorporated in sound recordings that are protected under this Part ; or
 - (iii) have not been fixed in a sound recording but are included in broadcasts qualifying for protection under this Part.

(2) The provisions of this Part on the protection of sound recordings, shall apply to —

- (a) sound recordings the producers of which, are nationals of Sri Lanka ;
- (b) sound recordings first fixed in Sri Lanka ; and
- (c) sound recordings first published in Sri Lanka.

(3) The provisions of this Part on the protection of broadcasts shall apply to—

- (a) broadcasts of broadcasting organisations where the registered office of such organisations are situated in Sri Lanka ; and