

REPEALED BY ACT 332 w.e.f. 1/12/87

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LAWS OF MALAYSIA

Act 10

COPYRIGHT ACT 1969

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LAWS OF MALAYSIA

Act 10

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ARRANGEMENT OF SECTIONS

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2. Interpretation.
3. No copyright except by virtue of this Act.
4. Works eligible for copyright.
5. Copyright by virtue of citizenship or residence.
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ACT 10

Section

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SCHEDULE.

LAWS OF MALAYSIA

Act 10

COPYRIGHT ACT 1969

An Act to revise and consolidate the law relating to copyright.

[1st August 1969] [P.U.(B)
184/69.]

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. (1) This Act may be cited as the Copyright Act 1969.

Short title,
extent,
commence-
ment and
application.

(2) This Act shall apply throughout Malaysia.

(3) This Act shall come into operation on a date to be appointed by the Minister by notification in the *Gazette*, and different dates may be so appointed for different provisions of this Act.

(4) This Act shall apply in relation to works made before the commencement of this Act as it applies in relation to works made thereafter.

2. (1) In this Act, unless the context otherwise requires—

Interpre-
tation.

“adaptation” includes any of the following, that is to say—

(a) in relation to a literary work, a version of the work (whether in its original language or a different language) in which it is converted into a dramatic work;

(b) in relation to a dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a literary work;

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 - (b) in relation to a dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a literary work;

(c) in relation to a literary or dramatic work—

- (i) a translation of the work;
- (ii) a 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;

(d) in relation to a musical work, an arrangement or transcription of the work;

“artistic work” means, irrespective of artistic quality, any of the following, or works similar thereto—

- (i) paintings, drawings, etchings, lithographs, woodcuts, engravings and prints;
- (ii) maps, plans, charts and diagrams;
- (iii) works of sculpture;
- (iv) photographs not comprised in a cinematograph film;
- (v) works of architecture in the form of buildings or models; and
- (vi) works of artistic craftsmanship, including pictorial woven tissues and articles of applied handicrafts and industrial art;

“author” means, in the case of a cinematograph film or, sound recording, the person by whom the arrangements for the making of the film or recording were undertaken, or, in the case of a broadcast transmitted from within any country, the person by whom the arrangements for the making of the transmission from within that country were undertaken; and in any other cases the person referred to in section 12 of this Act;

“broadcast” means radio and/or television broadcast by wireless telegraphy or wire or both and includes rebroadcast, and “broadcasting” shall be construed accordingly;

“broadcasting service” means any service of radio and/or television broadcasts operated under the general direction and control of or under licence by the Government in any part of Malaysia;

“building” includes any structure;

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"cinematograph film" means the first fixation of any sequence of visual images on material of any description (whether translucent or not) so as to be capable, by use of that material—

- (a) of being shown as a moving picture; or
- (b) of being recorded on other material (whether translucent or not) by the use of which it can be so shown,

and includes the sounds embodied in any sound track associated with a cinematograph film;

"citizen" includes a person who, if he had been alive on the relevant day, would have been qualified for citizenship under the Federal Constitution; and "relevant day" means Merdeka Day in respect of West Malaysia and Malaysia Day in respect of East Malaysia;

"communication to the public" includes, in addition to any live performance or delivery, any mode of visual or acoustic presentation, but does not include a broadcast or rebroadcast. and "communicate to the public" shall be construed accordingly;

"copy" means a reproduction of a work in written form, in the form of a recording or cinematograph film, or in any other material form;

"copyright" means copyright under this Act;

"educational institution" shall have the meaning assigned thereto under the provisions of the Education Act 1961; 43 of 1961.

"future copyright" means copyright which will or may come into existence in respect of any future work or class of works or other subject matter, or on the coming into operation of any provisions of this Act, or in any future event;

"Government" means Government of Malaysia or Government of a State in Malaysia as the case may be;

"licence" means a lawfully granted licence permitting the doing of an act controlled by copyright;

"literary work" means, irrespective of literary quality, any of the following, or works similar thereto:

- (a) novels, stories and poetical works;
- (b) plays, stage directions, film scenarios and broadcasting scripts;
- (c) textbooks, treaties, histories, biographies, essays and articles;
- (d) encyclopaedias, dictionaries and other works of reference;
- (e) letters, reports and memoranda;
- (f) lectures, addresses and sermons,

but does not include official texts of a legislative, administrative and legal nature nor official translations of such texts;

"manuscript", in relation to a work, means the original document embodying the work, whether written by hand or not;

"Minister" means the Minister charged with the responsibility for trade and industry;

"musical work" means any musical work, irrespective of musical quality, and includes works composed for musical accompaniment;

"photograph" means any produce of photography or of any process akin to photography (other than a part of a cinematograph film);

"prescribed" means prescribed by regulations made under this Act;

"rebroadcast" means a simultaneous or subsequent broadcast by one broadcasting service of the broadcast of another broadcasting service, whether situated in Malaysia or abroad, and includes diffusion of such broadcast over wires, and "rebroadcasting" shall be construed accordingly;

"reproduction" means the making of one or more copies, and includes, in the case of an artistic work, a version produced by converting the work into a three-dimensional form or, if it is in three dimensions, by converting it into a two-dimensional form, and reference to "reproducing" a work shall be construed accordingly;

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“sound recording” means the first fixation of a sequence of sounds capable of being perceived orally and of being reproduced, but does not include a soundtrack associated with a cinematograph film;

“work” includes translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collections of works which, by reason of the selection and arrangement of their content, present an original character;

“work of joint authorship” means a work produced by the collaboration of two or more authors in which the contribution of each author is not separable from the contribution of the other author or authors.

(2) For the purposes of this Act the following provisions shall apply with respect to publication—

- (a) a work shall be deemed to have been published if a copy or copies thereof have been made available with the consent of the author in a manner sufficient to satisfy the reasonable requirements of the public;
- (b) where in the first instance a part only of a work is published, that part shall be treated for the purposes of this Act as a separate work;
- (c) a publication in any country shall not be treated as being other than the first publication by reason only of an earlier publication elsewhere, if the two publications took place within a period of not more than thirty days.

3. Subject to this Act, no copyright shall subsist otherwise than by virtue of this Act.

No copy-
right except
by virtue
of this
Act.

4. (1) Subject to the provisions of this section the following works shall be eligible for copyright—

Works
eligible for
copyright.

- (a) literary works;
- (b) musical works;
- (c) artistic works;
- (d) cinematograph films;
- (e) sound recordings;
- (f) broadcasts.

(2) A literary, musical or artistic work shall not be eligible for copyright unless—

- (a) sufficient effort has been expended on making the work to give it an original character; and
- (b) the work has been written down, recorded or otherwise reduced to material form.

(3) A work shall not be ineligible for copyright by reason only that the making of the work, or the doing of any act in relation to the work, involved an infringement of copyright in some other work.

Copyright
by virtue of
citizenship
or residence.

5. (1) Copyright shall be conferred by this section on every work eligible for copyright of which the author or, in the case of a work of joint authorship, any of the authors is, at the time when the work is made, a qualified person, that is to say—

- (a) an individual who is a citizen of, or is a permanent resident in, Malaysia; or
- (b) a body corporate constituted and vested with legal personality under the laws of Malaysia and established in Malaysia.

(2) The terms of copyright conferred by this section shall be calculated according to the following table—

Type of Work	Date of Expiration of Copyright
(i) Literary, musical or artistic works other than photographs	Twenty-five years after the end of the year in which the author dies.
(ii) Cinematograph films and photographs	Twenty-five years after the end of the year in which the work was first published.
(iii) Sound recordings ...	Twenty years after the end of the year in which the recording was made.
(iv) Broadcasts	Twenty years after the end of the year in which the broadcast took place.

(3) In the case of anonymous or pseudonymous literary, musical or artistic works the copyright there-in shall expire twenty-five years after the end of the

year in which the work was first published, but not later than the end of the year in which it is reasonable to presume that the author has been dead for twenty-five years:

Provided that in the event of the identity of the author becoming known the terms of copyright shall be calculated in accordance with the provisions of paragraph (i) of the last preceding subsection.

(4) In the case of a work of joint authorship, reference in the preceding table to the death of the author shall be taken to refer to the author who dies last, whether or not he is a qualified person.

6. (1) Copyright shall be conferred by this section on every work which is eligible for copyright and which—

Copyright
by reference
to country
of origin.

- (a) being a literary, musical or artistic work or cinematograph film is first published in Malaysia;
- (b) being a work of architecture is erected in Malaysia or being another artistic work is incorporated in a building located in Malaysia;
- (c) being a sound recording, is made in Malaysia; and
- (d) being a broadcast, is transmitted from Malaysia and which has not been the subject of copyright conferred by section 5 of this Act.

(2) Copyright conferred on a work by this section shall have the same duration as is provided for in section 5 of this Act in relation to the same type of work.

7. (1) Copyright shall be conferred by this section on every work which is eligible for copyright and which is made by or under the direction or control of the Government and also such international bodies or other government organisation as may be prescribed.

Copyright in
works of
Government
and inter-
national
bodies.

(2) Copyright conferred by this section on a literary, musical or artistic work, other than a photograph, shall subsist until the end of the expiration of twenty-five years from the end of the year in which it was first published.

(3) Copyright conferred by this section on a film, photograph, sound recording or broadcast shall have the same duration as is provided for by section 5 of this Act in relation to the same type of work.

(4) Sections 5 and 6 of this Act shall not be taken to confer copyright on works to which this section applies.

Nature of
copyright in
literary,
musical or
artistic
works and
cinemato-
graph films.

8. (1) Copyright in a literary, musical or artistic work or in a cinematograph film shall be the exclusive right to control the doing in Malaysia of any of the following acts, namely the reproduction in any material form, the communication to the public and the broadcasting, of the whole work or a substantial part thereof, either in its original form or in adaptation:

Provided that copyright in any such work shall not include the right to control—

- (a) the doing of any of the aforesaid acts by way of fair dealing for purposes of research, private use, criticism or review, or the reporting of current events, subject to the condition that if such use is public, it is accompanied by an acknowledgment of the title of the work and its authorship, except where the work is incidentally included in a broadcast;
- (b) the doing of any of the aforesaid acts by way of parody, pastiche or caricature;
- (c) the inclusion in a film or broadcast of any artistic work situated in a place where it can be viewed by the public;
- (d) the reproduction and distribution of copies of any artistic work permanently situated in a place where it can be viewed by the public;
- (e) the incidental inclusion of an artistic work in a film or broadcast;
- (f) the inclusion of a work in a broadcast, communication to the public, collection of literary or musical works, sound recording, or film if such inclusion is made by way of illustration for teaching purposes and is compatible with fair practice and provided that mention is made of the source and of the name of the author which appears on the work thus used;

- (g) the recording made in schools, universities or educational institutions of a work included in a broadcast intended for such schools, universities or educational institutions;
- (h) the making of a sound recording of a literary or musical work, as well as the reproduction of such sound recording by the maker or under licence from him, provided that the copies thereof are intended for retail sale in Malaysia and that such work has already been previously recorded under licence from the owner of the relevant part of the copyright, whether in Malaysia or abroad, subject to such conditions and to the payment of such compensation as the Minister may prescribe;
- (i) the reading or recitation in public or in a broadcast by one person of any reasonable extract from a published literary work if accompanied by a sufficient acknowledgment;
- (j) any use made of a work by or under the direction or control of the Government, by such public libraries and educational and scientific institutions as may be prescribed, by the National Archives or the State Archives of any State in Malaysia, where such use is in the public interest, is compatible with fair practice and the provisions of regulations, if any, no profit is derived therefrom and no admission fee is charged for the communication, if any, to the public of the work thus used;
- (k) the reproduction of a work by or under the direction or control of a broadcasting service where such reproduction or any copies thereof are intended exclusively for a lawful broadcast and are destroyed before the end of the period of six calendar months immediately following the making of the reproduction or such longer period as may be agreed between the broadcasting service and the owner of the relevant part of the copyright in the work:

Provided that any reproduction of a work made under this paragraph may, if it is of an exceptional documentary character, be preserved in the archives of the broadcasting service

which are hereby designated official archives for the purpose, but, subject to the provisions of this Act, shall not be used for broadcasting or for any other purpose without the consent of the owner of the relevant part of the copyright in the work;

- (l) the broadcasting of a published work with which no licensing body referred to under section 16 of this Act is concerned, subject to the condition that, saving the provisions of this section, the owner of the broadcasting right in the work receives a fair compensation determined, in the absence of agreement, by the competent authority appointed under section 16 of this Act;
- (m) the communication to the public of a work, in a place where no admission fee is charged in respect of such communication, by any club whose aim is not profit making;
- (n) any use made of a work for the purpose of a judicial proceeding or of any report of any such proceeding;
- (o) the making of quotations from a published work if they are compatible with fair practice and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries, provided that mention is made of the source and of the name of the author which appears on the work thus used;
- (p) the reproduction by the press and the inclusion in a broadcast or a communication to the public of articles published in newspapers or periodicals on current economic, political or religious topics, if such reproduction or inclusion has not been expressly reserved and provided that the source is clearly indicated;
- (q) the reproduction by the press, the broadcasting and the communication to the public of lectures, addresses and other works of the same nature which are delivered in public, if such use is justified by the informatory purpose and has not been expressly reserved.

(2) Copyright in a work of architecture shall also include the exclusive right to control the erection of any building which reproduces the whole or a substantial part of the work either in its original form or in any form recognizably derived from the original :

Provided that the copyright in any such work shall not include the right to control the reconstruction in the same style as the original, of a building to which that copyright relates.

(3) Copyright in a literary, musical or artistic work or in a cinematograph film includes the right of the author, during his lifetime, to claim authorship of the work and to object to any distortion, mutilation or other alteration thereof which would be prejudicial to his honour or reputation :

Provided that, subject to the provisions of the preceding paragraph, an author who authorizes the use of his work in a cinematograph film or a broadcast may not oppose modifications which are absolutely required on technical grounds or for the purpose of exploitation.

9. (1) Where the owner of the copyright in any literary, musical or artistic work authorizes a person to incorporate the work in a cinematograph film and a broadcasting service broadcasts the film, it shall, in the absence of any express agreement to the contrary between such owner and person, be deemed that the owner of the copyright authorised such broadcast.

Broadcasting
of work
incorporated
in cinemato-
graph films.

(2) Notwithstanding the provisions of subsection (1) of this section, where a broadcasting service broadcasts a cinematograph film in which a musical work is incorporated, the owner of the right to broadcast the musical work shall, subject to the provisions of this Act, be entitled to receive fair compensation from the broadcasting service.

(3) In the absence of an agreement on the compensation payable under the last preceding subsection the amount of such compensation shall be determined by the competent authority appointed under section 16 of this Act.

Nature of
copyright in
sound
recording.

10. Copyright in a sound recording shall be the exclusive right to control in Malaysia the direct or indirect reproduction of the whole or a substantial part of the recording either in its original form or in any form recognizably derived from the original:

Provided that the provisions of paragraphs (a), (f), (g), (j), (k) and (n) of the proviso to subsection (1) of section 8 of this Act shall apply to the copyright in a sound recording in like manner as they apply to copyright in a literary, musical or artistic work or in a cinematograph film.

Nature of
copyright in
broadcasts.

11. Copyright in a broadcast shall be the exclusive right to control the doing in Malaysia of any of the following acts, namely, the recording, the reproducing and the rebroadcasting of the whole or a substantial part of the broadcast and the communication to the public, in places where an admission fee is charged, of the whole or a substantial part of a television broadcast, either in its original form or in any form recognizably derived from the original:

Provided that—

- (a) the provisions of paragraphs (a), (g), (j), (n) and (a) of the proviso to subsection (1) of section 8 of this Act shall apply to the copyright in a broadcast in like manner as they apply to copyright in a literary, musical or artistic work or a cinematograph film;
- (b) the copyright in a television broadcast shall include the right to control the taking of still photographs from such broadcasts.

First
ownership
of copyright.

12. (1) Copyright conferred by sections 5 and 6 of this Act shall vest initially in the author:

Provided that notwithstanding the provisions of subsection (6) of section 13 of this Act, where a work—

- (a) is commissioned by a person who is not the author's employer under a contract of service or apprenticeship, or
- (b) not having been so commissioned, is made in the course of the author's employment,

the copyright shall be deemed to be transferred to the person who commissioned the work or the author's employer, subject to any agreement between the parties excluding or limiting such transfer.

(2) Copyright conferred by section 7 of this Act shall vest initially in the Government or such international bodies or other governmental organizations as may be prescribed, and not in the author.

(3) Subject to the provision of the last preceding subsection—

(a) the name on a work purporting to the name of its author shall be considered as such, unless the contrary is proved;

(b) in the case of an anonymous or pseudonymous work, the publisher whose name is indicated in the work as such shall be deemed to be, unless the contrary is proved, the legal representative of the anonymous or pseudonymous author and shall be entitled to exercise and protect the rights belonging to the author under this Act;

(c) in the case of an unpublished work where the identity of the author is unknown, but where there is every reason to presume that he is a citizen of Malaysia the copyright conferred by this Act shall be deemed to vest in the Minister charged with the responsibility for culture.

(4) The provisions of paragraphs (b) and (c) of the last preceding subsection shall cease to apply when the identity of the author becomes known.

12A. (1) An affidavit or statutory declaration made before any person having authority to administer oath by any person claiming to be the owner of the copyright in any of the works eligible for copyright under this Act stating that—

*Affidavit
by owner.
[Ins. Act
A306.]*

(a) at the time specified therein a copyright subsisted in such work;

(b) he is the owner of the copyright; and

(c) a copy of the work annexed thereto is the true copy thereof,

shall be admitted in evidence in any criminal proceeding under this Act and shall be *prima facie* proof of the facts contained therein.

(2) If the ownership of the copyright is claimed by a company or any other body of persons, the affidavit or statutory declaration shall be made by any responsible officer of that company or body of persons.

Assignments
and licences.

13. (1) Subject to the provisions of this section, copyright shall be transmissible by assignment, by testamentary disposition, or by operation of law, as movable property.

(2) An assignment or testamentary disposition of copyright may be limited so as to apply to some only of the acts which the owner of the copyright has the exclusive right to control, or to a part only of the period of the copyright, or to a specified country or other geographical area.

(3) No assignment of copyright and no exclusive licence to do an act the doing of which is controlled by copyright shall have effect unless it is in writing.

(4) A non-exclusive licence to do an act the doing of which is controlled by copyright may be written or oral, or may be inferred from conduct.

(5) An assignment or licence granted by one copyright owner shall have effect as if granted by his co-owners also, and, subject to any contract between them, fees received by the grantor shall be divided equitably between all the co-owners. For the purposes of this sub-section persons shall be deemed to be co-owners—

(a) if they share a joint interest in the whole or any part of a copyright; or

(b) if they have interests in the various copyrights in a composite production, that is to say, a production consisting of two or more works.

(6) An assignment, licence or testamentary disposition may be effectively granted or made in respect of a future work, or an existing work in which copyright does not yet subsist, and the prospective copyright in any such work shall be transmissible by operation of law as movable property.

(7) A testamentary disposition of the manuscript shall, unless the testament has provided otherwise, be deemed to include any copyright or prospective copyright in the work which is vested in the deceased.

14. (1) Copyright shall be infringed by any person who does, or causes any other person to do, without the licence of the owner thereof, an act the doing of which is controlled by copyright. Infringe-
ments.

(2) Copyright shall also be infringed by any person who, without the licence of the owner of the copyright, imports into Malaysia, otherwise than for his private and domestic use, or distributes therein by way of trade, hire or otherwise, or by way of trade exhibits in public, any article in respect of which copyright is infringed under the last preceding subsection.

(3) Subject to the provisions of this Act, infringements of copyright shall be actionable at the suit of the owner of the copyright; and in any actions for such an infringement all such relief, by way of damages, injunction, accounts or otherwise, shall be available to the plaintiff as is available in any corresponding proceedings in respect of infringement of other proprietary rights.

(4) Where in an action for infringement of copyright it is proved or admitted—

(a) that an infringement was committed, but

(b) that at the time of the infringement the defendant was not aware, and had no reasonable grounds for suspecting, that copyright subsisted in the work to which the action relates,

the plaintiff shall not be entitled under this section to any damages against the defendant in respect of the infringement, but shall be entitled to an account of profits in respect of the infringement whether any other relief is granted under this section or not.

(5) Where in an action under this section an infringement of copyright is proved or admitted, and the court, having regard (in addition to all other material considerations) to—

(a) the flagrancy of the infringement; and

(b) any benefit shown to have accrued to the defendant by reason of the infringement,

is satisfied that effective relief would not otherwise be available to the plaintiff, the court, in assessing damages for the infringement, shall have power to award such additional damages by virtue of this subsection as the court may consider appropriate in the circumstances.

(6) No injunction shall be issued in proceedings for infringement of copyright which requires a completed or partly built building to be demolished or prevents the completion of a partly built building.

(7) In this section—

“action” includes a counter claim, and reference to the plaintiff and to the defendant in an action shall be construed accordingly;

“court” means the appropriate High Court in Malaysia;

“owner of the copyright” means the first owner, an assignee or an exclusive licensee, as the case may be, of the relevant portion of the copyright.

Offences.
[Sub. Act
A461.]

15. (1) Any person who at a time when copyright subsists by virtue of this Act in a work—

- (a) makes for sale or hire any infringing copy; or
- (b) sells, lets for hire or by way of trade exposes or offers for sale or hire any infringing copy; or
- (c) distributes infringing copies; or
- (d) possesses, otherwise than for his private and domestic use, any infringing copy; or
- (e) by way of trade exhibits in public any infringing copy; or
- (f) imports into Malaysia, otherwise than for his private and domestic use, any infringing copy; or
- (g) makes or has in his possession any contrivance capable of being used for the purpose of making infringing copies,

shall, unless he proves that he acted in good faith and had no reasonable grounds for supposing that copyright would or might be thereby infringed, be guilty of an offence and on conviction shall be liable—

- (i) in the case of an offence under paragraph (a), (b), (c), (d), (e) or (f) of this subsection, to a fine not exceeding ten thousand ringgit for each infringing copy in respect of which the offence

was committed or one hundred thousand ringgit, whichever is the lower, or to imprisonment for a term not exceeding five years or to both imprisonment and fine; and

- (ii) in the case of an offence under paragraph (g) of this subsection, to a fine not exceeding twenty thousand ringgit for each contrivance in respect of which the offence was committed or to imprisonment for a term not exceeding ten years or to both imprisonment and fine.

(2) The court trying any person accused of an offence under the last preceding subsection may at the conclusion of the trial, whether the alleged offender is convicted or not, order that any infringing copies (and any contrivance used or intended to be used for making infringing copies or capable of being used for the purpose of making infringing copies) in the possession of the alleged offender or before the court shall be destroyed, delivered up to the first owner of the copyright in question, his assignee or exclusive licensee, as the case may be, or otherwise dealt with as the court thinks fit. [Am. Act
A461.]

(3) Where an offence under this section is committed by a body corporate or by a person who is a partner in a firm, every director, secretary or manager of the body corporate or, as the case may be, every other partner in the firm shall be deemed to be guilty of the offence unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of the offence.

(4) If information is given upon oath to any magistrate that there is reasonable cause for suspecting that there are in any house, premises, vessel or other place any infringing copies (or any contrivance used or intended to be used for making infringing copies or capable of being used for the purpose of making infringing copies) by means of or in relation to which any offence under subsection (1) of this section has been committed, he may issue a warrant under his hand by virtue of which any police officer named or referred to in the warrant may enter the house, premises, vessel or other place at any reasonable time by day and [Am. Act
A461.]

search for and seize any such copy or contrivance; and if a copy or contrivance is seized under this subsection in connection with an offence and—

- (a) in proceedings brought under this section in connection with the offence no order is made under subsection (2) of this section as to the copy or contrivance; or
- (b) no such proceedings are instituted within six months of the seizure,

the copy or contrivance shall be returned to the person in whose possession it was when it was seized or, if it is not reasonably practicable to return it to that person, shall be disposed of in accordance with the law regulating the disposal of lost or unclaimed property in the hands of police authorities.

(5) For the purpose of this section, an “infringing copy” means an article which if made in Malaysia constitutes an infringement of copyright under this Act, and if made outside Malaysia would constitute an infringement of copyright under this Act if the making thereof had taken place in Malaysia.

[*Ins. Act*
A306;
Am. Act
A461.]

(6) For the purpose of paragraphs (d) and (f) of subsection (1) any person who has in his possession three or more infringing copies shall, unless the contrary is proved, be presumed to be in possession of or to import such copies otherwise than for private and domestic use.

Sessions
Court,
to have full
jurisdiction
in respect
of offences.
[*Ins. Act*
A461;
Am. Act
92.]

15A. Notwithstanding the provisions of any written law to the contrary a Sessions Court, shall have jurisdiction to try any offence under this Act or regulations made thereunder and to award the full punishment for such offence.

Appoint-
ment of
competent
authority
and duties
of such
authority.

16. (1) In any case where it appears to the competent authority that a licensing body—

- (a) is unreasonably refusing to grant licences in respect of copyright; or
- (b) is imposing unreasonable terms or conditions on the granting of such licences,

the competent authority may direct that, as respects the doing of any act relating to a work with which the licensing body is concerned, a licence shall be deemed to have been granted by the licensing body at the time

the act is done, provided the appropriate fees fixed by such competent authority are paid or tendered before the expiration of such periods as the competent authority may determine.

(2) In this section—

“competent authority” means an authority consisting of three persons one of whom shall be the Chairman appointed from time to time by the Minister for the purpose of exercising jurisdiction under the provisions of this Act;

“licensing body” means a society, firm or other organization which has as its main object, or one of its main objects, the negotiation or granting of licences in respect of copyright works, and includes an individual carrying on the same activity.

(3) The Chairman of the competent authority shall be a person who holds, has held or is qualified for the office of a judge of the High Court, and the other members shall be appointed from among such other persons as appear to the Minister to be suitably qualified for membership:

Provided that no person shall be appointed under the provisions of this section, nor shall any person so appointed act, as a member of the competent authority, if he, his partner, his employer or any body (whether statutory or not) of which he is a member has any pecuniary interest in any matter which requires to be determined by such authority.

(4) The Minister, where he makes any appointment under the last preceding subsection affecting a person who holds the office of a judge of the High Court, shall do so in accordance with the advice of the Lord President of the Federal Court.

(5) Where a member of the competent authority is not a judge or public officer—

(a) he shall be paid such remuneration and other allowances (if any) as may be specified by the Minister by order published in the *Gazette*; and

(b) he shall be deemed to be public servant within the meaning of section 21 of the Penal Code, but shall not otherwise be regarded as holding office in any of the public services by reason of his membership of the competent authority.

[Am. Act
A327.]
Cap. 45.

(6) No appeal shall lie from a decision of the competent authority.

(7) No action or other legal proceeding shall lie against any person in respect of anything done or omitted to be done in good faith in or in connection with the exercise of the competent authority's functions under this Act.

(8) The Minister shall make regulations governing the proceedings before the competent authority and, without prejudice to the generality of the foregoing, may make regulations—

- (a) prescribing the manner in which any matter may be referred to the competent authority;
- (b) prescribing the procedure to be adopted by the competent authority in dealing with any matter referred to it under this Act and the records to be kept by the competent authority;
- (c) prescribing the manner in which the competent authority shall be convened and the place where the competent authority shall hold its sittings;
- (d) prescribing a scale of costs and fees; and
- (e) generally for the better carrying out of the functions assigned to the competent authority by this Act.

Provisions
for
restricting
importation
of infringing
copies.

17. (1) The owner of copyright in any work may give notice in writing to the Minister—

- (a) that he is owner of the copyright in the work; and
- (b) that he requests the Minister, during a period specified in the notice, to treat as prohibited goods copies of the work to which this section applies:

Provided that the period specified in a notice under this subsection shall not exceed such period of years as may be prescribed by the Minister under subsection (4) and shall in any case not extend beyond the end of the period for which the copyright is to subsist.

(2) This section applies to any copy of a work made outside Malaysia which, if it had been made in Malaysia would have infringed the copyright in the work; and for the purpose of this section such copies shall be referred to as "infringing copies".

(3) Where a notice has been given under this section in respect of a work and has not been withdrawn, the importation into Malaysia at a time before the end of the period specified in the notice of any infringing copies shall, subject to the following provisions of this section, be prohibited:

Provided that this subsection shall not apply to the importation of any article by a person for his private and domestic use.

(4) The Minister may make regulations prescribing the form in which notices are to be given under this section and requiring a person giving such a notice, either at the time of giving the notice or at the time when the infringing copies are imported, or at both those times, to furnish such evidence and to comply with such other conditions (if any) as may be specified in the regulations.

(5) Without prejudice to the generality of subsection (4), regulations made under that subsection may include provision for requiring a person who has given a notice under subsection (1)—

[Am.
P.U. (B)
324/70.]

(a) to give to the Director General of Customs and Excise such security as may be prescribed by the regulations in respect of any liability or expense which he may incur in consequence of the detention at any time within the period specified in the notice of any infringing copies or in consequence of anything done in relation to a copy so detained;

(b) whether any such security is given or not, to keep the Director General indemnified against any such liability or expense as is mentioned in paragraph (a).

(6) Infringing copies shall be liable to forfeiture as if they were prohibited goods under the law relating to customs.

(7) In this section, "Minister" means the Minister charged with the responsibility for Customs and Excise.

Licence to
produce and
publish
translations.

18. (1) Any person may apply to the competent authority appointed under section 16 for a licence to produce and publish in the National language a translation of a literary or dramatic work written in any other language; and, where such an application is made in respect of a work, the competent authority after holding such inquiry as it thinks necessary may, subject to this section, grant to the applicant a licence (not being an exclusive licence) to produce and publish a translation of the work in the National language, on condition that the applicant shall pay to the owner of the right of translation in the work in respect of copies sold to the public royalties at a rate to be determined by the competent authority in the prescribed manner.

(2) A licence may be granted on an application made under subsection (1) in respect of a work only where--

- (a) a translation of the work in the National language has not been published by the owner of the copyright in the work (or by any person authorised by him) within seven years after the first publication of the work or, if such translation has been so published, it is out of print; and
- (b) the applicant has requested and been denied authorisation by the owner of the right to produce and publish the translation or is, after due diligence on his part, unable to find that owner; and
- (c) the applicant, if he is unable to find the owner of the right of translation, has not less than two months before his application sent to the publisher whose name appears on the work a copy of his request for the translation to be authorised; and
- (d) the applicant, if the nationality of the owner of the right of translation is known, has sent a copy of his request for the translation to the diplomatic or consular representative of the State of which that owner is a national, or to the organisation which may have been designated by the government of that state; and

- (e) the competent authority is satisfied that—
- (i) the applicant is able to produce and publish a correct translation of the work and possesses the means to pay to the owner of the right of translation the royalties payable under this section; and
 - (ii) the applicant undertakes to have the original title and the name of the author of the work printed on all copies of the published translation; and
- (f) the author of the work has not withdrawn it from circulation; and
- (g) an opportunity of being heard is first given, wherever practicable, to the owner of the right of translation in the work.

19. Where the copyright in any work is vested in the Government, the heads of the Ministries or Departments concerned with the copyright shall be responsible for the administration and control of that copyright on behalf of the Government:

Administra-
tion of
government
copyright.

Provided that the Minister may authorise the Director of National Archives to administer and control that copyright on behalf of the Government.

20. The Minister shall make regulations prescribing anything which may be prescribed under this Act and may make regulations extending the application of this Act in respect of any or all of the works referred to in subsection (1) of section 4 of this Act—

Regulations
and
extensions of
application
of Act.

- (a) to individuals who are citizens of, or permanent residents in,
- (b) to bodies corporate constituted and established in or under the laws of,
- (c) to works, other than sound recordings and broadcasts, first published in,
- (d) to works of architecture erected in, and to other artistic works incorporated in a building located in,

- (e) to sound recordings made in,
- (f) to broadcasts transmitted from,

a country which is a party to a treaty or a member of any convention or union to which Malaysia is also a party or a member as the case may be and which provides for protection of copyright in works which are protected under this Act.

Determina-
tion of
certain
contracts.

21. Immediately upon the coming into operation of this Act, every contract entered into substantially for the licensing of the doing of any act in respect of copyright which is not controlled by copyright under the provisions of this Act shall, if entered into before the coming into operation of this Act, be determined and of no further effect, and shall, if entered into after the operation of this Act, be null and void.

Savings.

22. (1) Nothing in this Act shall affect any right or privilege of any person (including the Government) under any written law, except in so far as that law is expressly repealed, amended or modified by or inconsistent with this Act.

(2) Nothing in this Act shall affect the right of the Government of Malaysia (or any person deriving title from that Government) to sell, use or otherwise deal with articles forfeited under the laws relating to customs, including articles so forfeited by virtue of this Act or any written law repealed by this Act.

Repeals and
transitional
provisions.

23. (1) The Acts of the United Kingdom specified in Schedule (in so far as they have effect in Malaysia with or without modification) and the other written laws specified in that Schedule are hereby repealed.

(2) The repeals effected by subsection (1) include the revocation of—

- (a) any Order in Council applying either of the Acts repealed by that subsection to any territory comprised in Malaysia at the commencement of this Act; and
- (b) all subsidiary legislation made under any written law so repealed.

COPYRIGHT

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SCHEDULE

(Section 23)

REPEALS

UNITED KINGDOM

1911 c. 46 ... Copyright Act 1911.

1956 c. 74 ... Copyright Act 1956.

FEDERATED MALAY STATES

Cap. 73 ... Copyright Enactment.

Cap. 74 ... Telegram Copyright Enactment.

STRAITS SETTLEMENTS

Cap. 160 ... Copyright Ordinance.

Cap. 161 ... Telegram Copyright Ordinance.



LAWS OF MALAYSIA

Act 10

COPYRIGHT ACT 1969

LIST OF AMENDMENTS

Amending law	Short title	In force from
P.U. (B) 324/70	Titles of Office Ordinance 1949—Notification	1-1-1971
Act A306 ...	Copyright (Amendment) Act 1975	30-5-1975
Act A327 ...	Penal Code (Amendment and Extension) Act 1976	31-3-1976
Act A461 ...	Copyright (Amendment) Act 1979	24-8-1979
Act 92 ...	Subordinate Courts Act 1948	1-1-1949; 1-6-1981
P.U. (A) 357/80	Subordinate Courts Act (Extension) Order 1980	1-6-1981

