

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতিবার, এপ্রিল ১৫, ২০১০

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়

লেজিসলেচিভ ও সংসদ বিষয়ক বিভাগ

মুদ্রণ ও প্রকাশনা শাখা।

প্রত্নাপন

তারিখ, ০৬ এপ্রিল ২০১০

নং ৪৮-(আংমণ) (লেঃসঃ) (মঃপঃ)/সবির/শাঃ৩/২-৫/৯৯অংশ/(ছায়ানথি) —সরকার, কার্য-
বিধিমালা, ১৯৯৬ এর প্রথম তফসিল (বিভিন্ন মন্ত্রণালয় এবং বিভাগের মধ্যে কার্যবন্টন) এর আইটেম
৩০ এর ক্রমিক ৭ ও ১০ এবং মন্ত্রিপরিষদের বিগত ৩-৭-২০০০ইং তারিখের সভায় গৃহীত সিদ্ধান্ত
বাস্তবায়নের নিমিত্ত সংস্কৃতি বিষয়ক মন্ত্রণালয়ের নিম্নরূপ ইংরেজী অনুবাদ সর্বসাধারণের জ্ঞাতার্থে
প্রকাশ করিল।

মোঃ আনোয়ার হোসেন

সহকারী সচিব।

(২২৮৩)

মূল্য : টাকা ৩০.০০

Copy Right Act, 2000**Act No. XXVIII of 2000**

[18 July, 2000]

An Act to amend and consolidate the laws relating to copyright.

WHEREAS it is expedient and necessary to amend and consolidate the laws relating to copyright;

it is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Copyright Act, 2000.

(2) It shall extend to the whole of Bangladesh.

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

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(1) “**copy**” means a reproduction in the form of words, picture, sounds, letters, written form or in the form of sound recordings, cinematograph film, graphic picture or in the material or non-material form, digital code (fixed or moving) or whether in two or three or surrealistic dimensions;

(2) “**duplicating equipment**” means any equipment or mechanical device or method which is used or may be used for making copies of any work;

(3) “**adaptation**” means,—

(a) regarding a dramatic work, the conversion of the work into a non dramatic nature;

(b) regarding a literary work, or an artistic work, the conversion of the work by way of performance in public or otherwise;

(c) regarding a literary or a dramatic work, any abridgement of the work, or any translation of the work in which the subject 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) regarding a musical work, any arrangement or transcription of it; and
 - (e) regarding any other work, use of such work through its rearrangement or alteration.
- (4) “**photographic copy**” means the making of the copies of a work by photocopying or similar means;
- (5) “**exclusive license**” means such license which confers the entity of copyright only on the licensee or persons authorized by him, to the exclusion of all other persons, and the exclusive licensee shall be construed accordingly;
- (6) “**copyright**” means copyright under this Act;
- (7) “**copyright society**” means any society registered under sub-section (3) of section 41 of this Act;
- (8) “**infringing copy**” means,—
- (a) regarding a literary, dramatic, musical or artistic work, a reproduction of the whole work or a part thereof, except in the form of a cinematograph film;
 - (b) regarding a cinematograph film or a photograph embodying the whole or a part thereof, made on any medium by electro-magnetic device or any other equipment or process;
 - (c) regarding a sound recording, any other recording embodying the same sound recording made by any means;
 - (d) regarding a programme or performance in which a broadcast reproduction right or a performer’s right subsists under this Act, a cinematograph film or a sound recording of such programme or performance in whole or in part thereof, if such reproduction, copy or sound recording is made or imported in contravention of the provisions of this Act;
 - (e) regarding a computer programme, reproduction or use of the whole work or a part thereof;

- (9) “**computer**” means any mechanical, electro-mechanical, electronic, magnetic, electro-magnetic, digital or optical or any other impulse or data processing devices or systems which perform logical and arithmetical, any or all functions, by using those devices or systems;
- (10) “**computer programme**” means a set of instructions expressed in words, codes, schemes or in any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular result;
- (11) “**work**” means any of the following works, namely :—
- a literary, dramatic musical or artistic work;
 - a cinematograph film;
 - a sound recording; and
 - a broadcast;
- (12) “**engravings**” include etchings, lithographs, woodcuts, prints and other similar works, except photograph;
- (13) “**library**” means any library which can be used free of charge and a library attached to an educational institution, operated on a non-profit basis;
- (14) “**cinematograph film or movie**” means any work of visual recording on any medium produced through a process by which a moving image may be produced by any means and it includes a sound recording accompanying such visual recording and “cinematograph” shall be construed as including video film, video cassette, video C,D, L,D; internet, cable networks, and any such work that may be produced by any process identical to cinematography in future;
- (15) “**communication to the public**” means making any work available for being seen or heard or otherwise enjoyed by the public through wire and wireless means directly or by any means of display or diffusion other than by issuing copies of such work regardless by any member of the public actually sees, hears or otherwise enjoys the work made available in this manner;

Explanation :—For the purposes of this clause, communication through satellite or cables or any other means of simultaneous communication to more than one household or any place of residence including office, club, and community centre etc, residential room of any house or hostel shall be deemed to be communication to the public.

- (15a) “**National Library**” means the National Library of Bangladesh established or recognized by the Government;
- (15b) “**Penal Code**” means the Penal Code , 1860 (Act no. XLV of 1860);
- (16) “**building**” includes any structure;
- (16a) “**Code of Civil Procedure**” means the Code of Civil Procedure, 1908 (Act no. V of 1908);
- (17) “**prescribed**” means prescribed by rules made under this Act;
- (18) “**dramatic work**” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement of acting, form of which is fixed in writing otherwise but does not include a cinematograph film;
- (19) “**calendar year**” means the year commencing on the 1st day of January;
- (20) “**manuscript**” means the original documents embodying the work, whether written by hand or made by mechanical or digital or any other devices including any work plan, drawings, designs, layouts, notes and codes etc;
- (21) “**rebroadcast**” means a simultaneous or subsequent broadcast by one Broadcasting Authority of the broadcast of another Broadcasting Authority, whether situated in Bangladesh or abroad, and includes distribution of such broadcast over wires and re-broadcasting shall be construed accordingly;
- (22) “**book**” includes every volume, part or division of a volume and pamphlet, in any language, and every sheet of music, map, chart or plan, separately printed or engraved on stone, but does not include a newspaper;

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- (23) “**plate**” includes any stereotype or other plate, stone, block, mould, matrix, transfer, negative, duplicating equipment or other device used for printing or reproducing copies of any work, and matrix or other appliance by which sound recordings for the acoustic presentation of the work are made or are intended to be made;
- (24) “**author**” means—
- regarding a literary or dramatic work, the author of the work;
 - regarding a musical work, the composer;
 - regarding an artistic work, except photograph, the artist;
 - regarding a photograph, the person taking the photograph;
 - regarding a cinematograph film or a sound recording, the producer, and (f) regarding any literary, dramatic, musical or artistic work which is computer-generated, the person or institution who causes the work to be created;
- (25) “**producer**” regarding a cinematograph film or sound recording, means a person who takes the initiative with investment and responsibility for making the work;
- (26) “**photograph**” includes photo-lithograph and any works produced by any process analogous to photography but does not include any part of a cinematograph film;
- (26a) “**Criminal Procedure**” means the Code of Criminal Procedure, 1898 (Act no. V of 1898);
- (27) “**Bangladeshi work**” means a literary, dramatic, musical or artistic work,—
- the author of which is a citizen of Bangladesh; or
 - which is first published in Bangladesh; or
 - the author of which, in the case of an unpublished work was, at the time of the making of the work, a citizen of Bangladesh.
- (28) “**Board**” means the Copyright Board constituted under sub-section (1) of section 11 of this Act;
- (29) “**work of sculpture**” includes casts and models;

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- (30) “**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 another author;
- (31) “**composer**” regarding a musical work, means the person who composes the music regardless of whether he records it in any form of graphical notation;
- (32) “**Registrar**” means the Registrar of Copyrights appointed under sub-section (1) of section 10 of this Act and includes a Deputy Registrar of Copyright discharging any function of the Registrar;
- (34) “**lecture**” includes address, speech and sermon;
- (35) “**sound recording**” means a recording of sound from which such sounds may be produced regardless of the medium on which such recording is made or the method by which the sounds are produced;
- (36) “**artistic work**” means—
- 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;
 - a work of architecture; and
 - any other work of artistic craftsmanship;
- (37) “**musical work**” means a work consisting of music and includes any graphical notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music;
- (38) “**fixation**” means the incorporation of sounds or images or both in a device by means of which they can later be made orally or visually perceivable;
- (39) “**Government**” means the Government of the People’s Republic of Bangladesh;
- (40) “**government work**” means a work which is made or published by or under the direction or control of—
- the Government or any department of the Government;
 - the legislative authority in Bangladesh;
 - any court, tribunal or other judicial authority in Bangladesh;

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- (41) “**performance**” regarding a performer’s right, means visual or acoustic presentation, made live by one or more performers;
- (42) “**performer**” includes an actor, singer, musician, dancer, acrobat, juggler, conjurer, snake charmer, a person delivering a lecture or any other person who makes a performance;
- (43) “**broadcast**” means communication to the public by means of wireless diffusion, whether in any one or more of the forms of signals, signs, sounds, computer with internet connections satellites or visual images including telecast or broadcast by wire or wireless devices or by both; and it also includes a re-broadcast/re-telecast;
- (44) “**Broadcasting Authority**” means any person by whom, or any authority, by which, or as the case may be, a broadcasting transmitter station is operated;
- (45) “**delivery**” regarding a lecture, includes delivery by means of any mechanical instrument or by broadcast;
- (46) “**literary work**” means a work of humanities, religion, social and physical sciences, and other areas, written or produced in book form, which is of creative, research-oriented, informative and similar nature or of translated, converted, adapted, modified or compiled nature, or a programme produced by a computer intended for study and listening of people in general;
- (47) “**work of architecture**” means any building or structure having an artistic character or design, or any model for such building or structure;
- (48) “**Film Archives**” means the Film Archives Department established by the Government of the People’s Republic of Bangladesh.

3. Meaning of publication.—For the purposes of this Act, “publication” means making a work available to the public by issuing of copies or by communicating the work to the public:

Provided that if there is nothing contrary to this Act, the following works shall not come within the meaning of publication, namely :—

- (a) dramatic, dramatic-musical, cinematograph film or musical works;
- (b) recitation of a literary work in public;

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- (c) communication through wire, wireless and any other medium, broadcasting of a literary or an artistic work;
 - (d) exhibition of artistic works;
 - (e) construction of a work of architecture.

4. When work not deemed to be published or performed in public.—Except for the purposes of infringement of copyright, a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if it is published, or performed in public or delivered in public without the license or consent of the owner of the copyright.

5. The work deemed to be first published in Bangladesh.—For the purposes of this Act, a work published in Bangladesh shall be deemed to be first published in Bangladesh 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 Bangladesh and in another country if the time between the publication in Bangladesh and in such other country does not exceed thirty days or any other time limit as determined in publishing agreement between the participating countries, whichever occur earlier, or such other period as the Government may, in relation to any specified country, determine.

6. Certain disputes to be decided by the Board.—If any question arises, whether a work has been published or as to the date on which a work was published for the purpose of Chapter-V or, whether 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 Board whose decision thereon shall be final:

Provided that if the Board, satisfies that the issue of copies or communication to the public referred to in section 3 was of an insignificant nature, it shall not be deemed to be publication for the purposes of that section.

7. Nationality of author where the making of unpublished work is extended over a 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 the major part of that period.

8. Domicile or body corporate.—For the purposes of this Act, a body corporate shall be deemed to be domiciled in Bangladesh if it is incorporated under any law in force in Bangladesh or if it has an established place of business in Bangladesh.

CHAPTER-2

COPYRIGHT, REGISTRAR OF COPYRIGHT OFFICE, REGISTRAR OF COPYRIGHT AND COPYRIGHT BOARD

9. Copyright Office.—(1) For the purposes of this Act, there shall be established an office to be called the Copyright Office;

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

(3) The Copyright Office shall have a seal the impression whereof shall be judicially noticed.

10. Registrar and Deputy Registrars of Copyrights.—(1) For the purposes of this Act, the Government shall appoint a Registrar of Copyrights and may appoint such number of Deputy Registrars of Copyrights as may be determined by it.

(2) The Registrar shall,—

- (a) sign all entries made in the Register of Copyright kept under this Act;
- (b) sign all certificates of registration of copyrights and certified copies under the seal of the Copyright Office;
- (c) exercise the powers conferred and perform the duties imposed upon him by or under this act;
- (d) shall perform such other functions as may be prescribed by rule.

(3) A Deputy Registrar of Copyrights shall discharge, under the superintendence and direction of the Registrar, such functions of the Registrar under this Act as the Registrar may, from time to time, assign to him; and, the Registrar shall also include a Deputy Registrar under this Act.

11. **Copyright Board.**—(1) The Government shall, as soon as possible after the commencement of this Act, constitute a Board to be called the Copyright Board which shall consist of a Chairman and not less than two or more than six other members.

(2) The Chairman and other members of the Board shall be appointed by the Government.

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

(4) The Chairman of the Board shall be a person who is, or has been, a judicial officer not below the rank of a District Judge in the selection grade or an officer not below the rank of an Additional Secretary to the Government or who is an advocate qualified to be a Judge of the Supreme Court.

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

12. **Power and Procedure of Copyright Board.**—(1) The Board shall, subject to rules made under this Act, have powers to regulate its own procedure, including the fixing of places and times of its sittings.

(2) If there is a difference of opinion among the members of the Board in respect of any matter coming before it under this Act, the opinion of the majority shall prevail. Provided that where there is no such majority the opinion of the Chairman shall prevail:

Provided that where there is no such majority the opinion of the Chairman shall prevail.

(3) The Board may authorize any of its members to exercise any of its powers under section 99 and any order made or act done in exercise of any such power by the member so authorized shall be deemed to be the order or act, as the case may be, of the Board.

(4) No acts done or proceedings taken by the Board under this Act shall be invalid or be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of the Board.

(5) The Board shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, and all proceedings placed before the Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Penal Code.

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

CHAPTER-3

COPYRIGHT

13. No copyright except as provided in this Act.—No person shall be entitled to any copyright or any similar right in respect of any work, whether published or unpublished, otherwise than 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.

14. Meaning of copyright.—(1) For the purposes of this Act, “copyright” means any right, subject to the provisions of this Act, to do or authorize the doing of any of the following acts in respect of a work or substantial part thereof, namely :—

- (1) regarding a literary, dramatic or musical work, except a computer programme,—
 - (a) to reproduce the work in any material form including the storing of it in any medium by electronic means;
 - (b) to issue copies of the work to the public except copies already in circulation;
 - (c) to perform the work in public, or communicate it to the public;
 - (d) to produce, reproduce, perform or publish any translation of the work;
 - (e) to make any cinematograph film or sound recording in respect of the work;

- (f) to broadcast the work or to communicate the broadcast of the work to the public by a loudspeaker or any other similar instrument;
- (g) to make any adaptation of the work;
- (h) to do, regarding a translation or adaptation of the work, any of the acts specified in relation to the work in sub-clauses (a) to (h).

(2) regarding a computer programme,—

- (a) to do any of the acts specified in clause (1);
- (b) to sell or give on hire, or offer for sale or hire any copy of the computer programme, regardless of whether such copy has been sold or given on hire on earlier occasions.

(3) regarding an artistic work,—

- (a) to reproduce the work in any material form including depiction in three dimensions of a two dimensional work or in two dimensions of a three dimensional work;
- (b) to publicize the work to the public;
- (c) to issue copies of the work to the public except copies already in circulation;
- (d) to include the work in any cinematograph film;
- (e) to make any adaptation of the work;
- (f) to do in relation to an adaptation of the work any of the acts specified in relation to the work in sub-clauses (a) to (d);
- (g) to broadcast the work or to communicate the broadcast of the work to the public by a loudspeaker or any other similar instrument.

(4) regarding a cinematograph film,—

- (a) to make a copy of the work, including a photograph of any image forming part thereof in vcp, vcr, dvd or any other form;
- (b) to sell or give on hire, or offer for sale or hire, any copy of the film in vcp, vcr, dvd or any other form, regardless of whether such copy has been sold or given on hire on earlier occasions;
- (c) to publicize and display among general public any auditory or visual copy of the film in vcp, vcr, dvd or any other form;

(5) regarding a sound recording,—

- (a) to make any other sound recording embodying it;
- (b) to sell or give on hire, or offer for sale or hire, any copy of the sound recording regardless of whether such copy has been sold or given on hire on earlier occasions;
- (c) to communicate the sound recording to the public.

Explanation.—For the purposes of this section, the copy which has been sold once shall be deemed to be a copy already in circulation.

15. Works in which copyright subsists.—(1) Subject to the provisions of this section and to the other provisions of this Act, copyright shall subsist throughout Bangladesh in the following classes of works, such as:—

- (a) original literary, dramatic, musical and artistic works;
- (b) cinematograph films; and
- (c) sound recordings.

(2) Copyright shall not subsist in any work specified in sub-section (1) except a work to which the provisions of section 68 or section 69 apply, unless,—

- (a) in the case of a published work, the work is first published in Bangladesh, or where the work is first published outside Bangladesh, 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 Bangladesh;

- (b) in the case of an unpublished work other than a work of architecture, the author is at the date of the making of the work a citizen of Bangladesh or domiciled in Bangladesh:

Provided that notwithstanding anything contained in sub-clauses (a) and (b), the principal office or general residence of a film producer was situated in Bangladesh for a considerable period or during the whole period of making a film, then the copyright shall subsist in that film;

- (c) in the case of a work of architecture, the work is located in Bangladesh.

Explanation.—In the case of a work of joint authorship, specified in this section shall be applicable to all the authors of the work.

(3) Copyright shall not subsist in the following matters—

- (a) in the case of cinematograph film, if a substantial part of the film is an infringement of the copyright in any other work;
- (b) in the case of sound recording made in respect of a literary, dramatic or musical work, if, while making the sound recording, copyright in such work has been infringed.

(4) The copyright in a cinematograph film or a sound recording 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 sound recording is made.

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

16. Provisions as to copyright in designs registered or worthy of being registered under the Patents and Designs Act, 1911 (Act no. II of 1911).—(1) Copyright shall not subsist under this Act in any design, which is registered under the Patents and Designs Act, 1911 (Act no. II of 1911).

(2) Copyright in any design which is capable of being registered under the Patents and Designs Act, 1911 (Act no. II of 1911), but which has not been so registered, shall cease as soon as any article to which the design has been applied and has been reproduced more than fifty times by an industrial process by the owner of the copyright, or, with his license, by any other person.

CHAPTER-4

OWNERSHIP OF COPYRIGHT AND RIGHT OF OWNERS

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 under his employment by the owner 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 owner 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 other respects the author shall be the first owner of the copyright of the work ;

- (b) subject to the provisions of clause (a), in case of a photograph taken or a painting or a portrait drawn, or an engraving or a cinematograph film made by a person under his personal initiative or exchange of money, the person shall, in the absence of any other 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;
- (d) in the case of an address or speech delivered in public, the person who has delivered such address or speech, shall be the first owner of it; 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, was employed by any other person who arranges such address or speech or on whose behalf or premises such address or speech is delivered;
- (e) in the case of a Government work, the Government shall be the first owner of the copyright therein, if there is no other agreement;
- (f) in the case of a work made or first published by or under the direction or control of any local authority, such local authority shall, in the absence of any agreement to contrary, be the first owner of the copyright therein;

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- (g) in the case of a work to which the provisions of section 68 apply, the international organization concerned shall be the first owner of the copyright therein;
 - (h) in the case of a computer programme, the person or persons or institution appointed for creating the programme, shall be the first owner of copyright, if there is no other agreement.

18. Assignment of copyright.—(1) 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 limitation 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 regarding the rights so assigned, and the assignor regarding the rights not assigned, shall be treated for the purposes of this Act as owner of the copyright and the provisions of this Act shall have effect accordingly.

Explanation.—In this section, the expression “assignee” regarding 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. Manner of assignment.—(1) No assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or by his duly authorized agent.

(2) The assignment of copyright in any work shall identify such work, and shall specify the rights assigned and the duration and territorial extent of such assignment.

(3) The assignment of copyright in any work shall also specify the amount of royalty payable, if any, to the author or his legal heirs during the currency of the assignment and the assignment shall be subject to revision, extension or termination on terms mutually agreed upon by the parties.

(4) Where the assignee does not exercise the rights assigned to him under any sub-section of this section within a period of one year from the date of assignment, the assignment in respect of such rights shall be deemed to have lapsed after the expiry of the said period unless otherwise specified in the assignment.

(5) If the period of the assignment is not stated or otherwise nothing is mentioned in the deed of assignment, the duration of assignment shall be deemed to be five years from the date of assignment.

(6) If the territorial extent of assignment of the rights is not specified, it shall be presumed to be extended to the whole of Bangladesh.

(7) Nothing in sub-section (2), (3), (4), (5) and (6) shall be applicable to assignment made before the coming into force of this Act.

20. Disputes with respect to the assignment of copyright.—(1) If an appointed assignee fails to make exercise of the rights transferred to him, and such failure is not attributable to any act or omission of the assignor, then, the Board may, on receipt of a complaint from the assignor and after holding such inquiry as it may deem necessary, revoke such assignment.

(2) If any dispute arises with regard to the assignment of any copyright, the Board may, on receipt of a complaint from the aggrieved party and after holding such inquiry as it may deem necessary, pass such an order as it thinks fit including an order for the recovery of any royalty payable:

Provided that the Board shall not pass any order under this sub-section to revoke the appointed assignment unless it is satisfied that the terms of assignment are harsh to the assignor, in case the assignor is also the author:

Provided further that no order of revocation of assignment under this sub-section shall be made within a period of five years from the date of such assignment.

21. 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 by hand or not.

22. Right of owner to relinquish copyright.—(1) 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 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 shall publish it in the official Gazette in such 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).

23. Resale share rights in original copies.—(1) In the case of resale of the original copy of a painting sculpture or drawing, or of the original manuscript of a literary or a dramatic work or a musical work, the author of such work if he was the first owner of the rights under section 17 or his legal heirs shall, notwithstanding any assignment of copyright in such work, have a right to share in the resale price of such original copy or manuscript in accordance with the provisions of this section :

Provided that such right shall cease to exist on the expiry of the term of the copyright in the work.

(2) The share referred to in sub-section (1) shall be such as the Board may fix and the decision of the Board in this behalf shall be final :

Provided that the Board may fix different shares for different classes of work :

Provided further that in no case the share shall exceed ten percent of the resale price.

(3) If any dispute arises regarding the right conferred by this section, it shall be referred to the Board whose decision shall be final.

CHAPTER-5

TERM OF COPYRIGHT

24. 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 (except 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 died last.

25. Term of copyright in posthumous work.—(1) 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 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 sound recordings made in respect of the work have been sold, or offered for sale, to the public.

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

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

28A. Term of copyright in computer programme : In the case of a computer programme, the copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the programme is published.

29. Term of copyright in anonymous and pseudonymous work.—(1) In the case of a literary, dramatic, musical or artistic work (except 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 from the beginning of the calendar year next following the year in which the author dies.

(2) In the case of an anonymous work of joint authorship, referred to in sub-section (1) the word “author”, shall be construed as,—

- (a) where the identity of one of the authors is disclosed, the said author;
- (b) where the identity of one of more than one author is disclosed, the author who died last among such authors;

(3) In the case of a pseudonymous work of joint authorship, referred to in sub-section (1) the word “author”, shall be construed as,—

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

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- (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 one 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 Board by that author.

30. Term of copyrights in Government works.—(1) Copyright in a Government work shall, where the Government is the first owner of the copyright therein, subsist until sixty years from the beginning of the calendar year next following the year in which the work is published.

31. Term of copyrights in works of local authorities.—Copyright in the work of a local authority shall, where the local authority is the first owner of the copyright therein, subsist until sixty years from the beginning of the calendar year next following year in which the work is first published.

32. Term of copyrights in works of international organizations.—Copyright in the work of an international organization to which the provisions of section 68 apply shall subsist until sixty year from the beginning of the calendar year next following the year in which the work is first published.

CHAPTER-6

RIGHT OF BROADCASTING ORGANIZATION AND PERFORMERS

33. Broadcast reproduction right.—(1) Every broadcasting organization shall have a special right to be known as “broadcast reproduction right” in respect of its broadcasts.

(2) The broadcast reproduction right shall subsist until 25 (twenty-five) years from the beginning of the calendar year next following the year in which the broadcast is made.

(3) During the continuance of a broadcast reproduction right in relation to any broadcast, any person who, without the license of the owner of the right, does any of the following acts of the broadcast :—

- (a) re-broadcasts the broadcast; or
- (b) causes the broadcast to be heard or seen by the public on payment of any charges; or
- (c) makes any fixation of the broadcast; or
- (d) makes any production of fixation where such initial fixation was done without license or, where it was licensed, for any purpose not envisaged by such license; or
- (e) sells or hires, or offers for such sale or hire for the public, any such fixation or reproduction of such fixation referred to in clause (c) or (d). he shall, subject to the provisions of section 36, be deemed to have infringed the broadcast reproduction right of the concerned broadcasting organization and the provisions of chapter 13, 14, 15, 16 and 17 shall, subject to its natural limitation, be applied to the broadcasting organization and its broadcast as if they were respectively the author and the works.

34. Other rights not affected.—For the removal of doubts, it is hereby declared that the rights conferred upon broadcasting organization shall not affect the copyright in any literary, dramatic, musical or artistic work or cinematograph film or sound recording used in the broadcast.

35. Performer's right.—(1) Where any performer appears or engages in any performance, he shall have a special right to be known as the “performer's right” in relation to such performance.

(2) The performer's right shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first performed.

(3) During the continuance of a performer's right in relation to any performance, any person who, without the consent of the performer, does any of the following acts in respect of the performance or any substantive part thereof, namely :—

- (a) makes a fixation of the performance; or

- (b) makes any reproduction of such fixation of the performance, which fixation was—
 - (i) made without the performer's consent; or
 - (ii) made for purposes different from those for which the performer gave his consent; or
 - (iii) made for purposes different from those referred to in section 36 from a fixation which was made in accordance with section 36; or
- (c) broadcasts the performance except where the broadcast is made from a sound recording or visual recording other than one made in accordance with section 36, or is a re-broadcast by the same broadcasting organization of an earlier broadcast which did not infringe the performer's right; or
- (d) communicates the performance to the public otherwise than by broadcast, except where such communication to the public is made from a fixation or a broadcast;

he shall be deemed to have infringed the right of the performer and the provisions of chapter 11, 12 and 13 shall, subject to its natural limitation, apply to the performer and the performance as if they were respectively the authors and the works.

36. Acts not infringing broadcast reproduction right or performer's right.—No broadcast reproduction right or performer's right shall be deemed to be infringed by—

- (a) the making of any fixation for the private use of the person making such fixation, or solely for purposes of bona-fide teaching or research; or
- (b) the use, consistent with fair dealing, of excepts of a performance or of a broadcast in the reporting of current events or for bona fide review, teaching or research; or
- (c) such other acts, with any necessary adaptations and modifications, which do not constitute infringement of copyright under section 72.

37. The provisions applying to broadcast reproduction right and performer's right.—Sections 18, 19, 48, 76, 79, 85, 86 and 93 shall, with any necessary adaptations and modifications, apply in relation to the broadcast reproduction right in any broadcast and the performer's right in any performance as they apply in relation to copyright in a work:

provided that where copyright or performer's right subsists in respect of any work or performance that has been broadcast, no license to reproduce such broadcast shall take effect without the consent of the owner of rights or performer, or both of them as the case may be.

CHAPTER-7

RIGHT IN PUBLISHED EDITIONS OF WORKS

38. Protection of typography and term of protection.— (1) The publisher of an edition of a work shall enjoy the right to authorize the making, by any photographic or similar process, of copies, intended for sale in commerce, of the typographical arrangement of the edition, and such right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the edition was first published :

Provided that in the case of a literary work, though the first owner of the copyright withdraws a right from the assignee at any time according to the agreement, the publisher shall not be the owner of such right for his typographical arrangement and cover-designs, unless he is the first owner.

(2) The owners of films shall deliver compulsorily a copy of feature, short or any length of film produced by them to the Bangladesh Film Archive for long-term preservation, future research and other archival purposes. The following conditions shall apply for such delivery :—

- (a) The copy to be delivered must be an exact, best and complete copy of the original film and should be free from any defects;
- (b) The provisions of sub-section (1) shall apply to any new edition of film and it must be submitted to the Film Archive within sixty days of its release or publication, with their own costs;
- (c) The Film Archive authority shall issue necessary written receipts against the delivery of the films which shall, inter-alia, include name of the film, duration of the showing time, date of publication and name of the owner of copyrights etc.

38A. Penalty.—If any person fails to deliver a copy cinematograph film to the B.F.A within the time specified under sub-section (1) and (2) he shall be punished with imprisonment which may extend to 6 (six) months or with fine which may extend to 50,000 (fifty) thousand taka or with both.

38B. Taking cognizance of offences mentioned in this chapter.—Notwithstanding anything contained in the Code of Criminal Procedure, no court shall take cognizance of any offence punishable under this chapter, without the complaint of any officer authorized in this behalf by the Government by general or special order.

39. Infringements, etc.—Any person who, without the authorization of the publisher, makes or causes the making of, by any photographic or similar process, copies, intended for sale in commerce, of the typographical arrangement of the edition or any substantial part thereof, shall be deemed to infringe the rights of the publisher, and the provisions permitted by the nature of the matter, apply to the publisher and the typographical arrangements of editions as if they were authors and works respectively.

Explanation. “Typographical arrangement” shall include calligraphy.

40. Relations to copyright.—For the removal of all doubts, it is hereby declared that the right conferred upon publishers by this chapter shall—

- (a) subsist irrespective of the question whether the edition is that of a work protected or unprotected by copyright;
- (b) not affect the copyright, if any, in the literary, dramatic, musical, or artistic work itself.

CHAPTER—8

COPYRIGHT SOCIETIES

41. Registration of Copyright Society.—(1) No person or Societies shall, after the commencement of this Act, run or carry on business of issuing or granting licenses in respect of any work in which copyright subsists or in respect of any other rights conferred by this Act except under or in accordance with the registration granted under sub-section (3) :

Provided that an owner or copyright shall, in his individual capacity, continue to have the right to grant licenses in respect of his own works consistent with his obligations as a member of the registered copyright society:

Provided further that a performing rights society functioning in accordance with the provisions of the Copyright Ordinance, 1962 (Ordinance No. XXXIV of 1962) immediately before the commencement of this Act shall be deemed to be a copyright society for the purposes of this chapter and every such society shall get itself registered within a period of one year from the date of commencement of this Act.

(2) Every society who fulfils such conditions as may be prescribed may apply for permission to do the business specified in sub-section (1) to the Registrar who shall submit the application to the Government.

(3) The Government may, having regard to the interests of the authors and other owners of rights under this Act, the interest and convenience of the public and in particular of the groups of persons who are most likely to seek licenses in respect of the relevant rights and the ability and professional competence of the applicants, register such association of persons as a copyright society subject to such conditions as may be prescribed :

Provided that the Government shall not ordinarily register more than one copyright society to do business in respect of the same class of works.

(4) The Government may, if it is satisfied that a copyright society is being managed in a manner detrimental to the interests of the owners of rights concerned, cancel the registration of such society after such inquiry as may be prescribed.

(5) If the Government is of the opinion that in the interest of the owners of rights concerned, it is necessary so to do, it may, by order, suspend the registration of such society pending inquiry under sub-section (4) for such period not exceeding one year as may be specified in such order and the Government shall appoint an administrator to discharge the functions of the copyright society.

42. Administration of rights of owners by copyright society.—(1)
Subject to such conditions as may be prescribed,—

- (a) a copyright society may accept from an owner of rights exclusive authorization to administer any right in any work by issue of licenses or collection of license fees or both; and
- (b) an owner of rights shall have the right to withdraw such authorization without prejudice to the rights of the copyright society under any contract.

(2) It shall be competent for a copyright society to enter into agreement with any foreign society or organization administering rights corresponding to rights under this Act,—

- (a) to entrust such foreign society or organization the administration in any foreign country of rights administered by the said copyright society in Bangladesh, or
- (b) to entrust for administering in Bangladesh the rights administered in a foreign country by such foreign society or organization :

Provided that no such society or organization shall permit any discrimination regarding to the terms of license or the distribution of fees collected between rights in Bangladeshi and other works.

(3) Subject to such conditions as may be prescribed, a copyright society may—

- (a) issue licenses under section 48 in respect of any rights under this Act;
- (b) collect fees in according with such licenses;
- (c) distribute such fees among owners of rights after making deductions for its own expenses;
- (d) perform any other functions consistent with the provisions of section 44.

43. Payment of remuneration by copyright society.—(1) If the Government is of the opinion that copyright society for a class of work is generally administering the rights of the owners of rights in such work throughout Bangladesh, it shall appoint that society for the purposes of this section.

(2) The copyright society shall, subject to such rules as may be made in this behalf, frame a scheme for determining the quantum of remuneration payable to individual copyright owners having regard to the number of copies of the work in circulation:

Provided that such scheme shall restrict payment to the owners of rights whose work have attained a level of circulation which the copyright society considers reasonable.

44. Control over the copyright society by the owner of right.—(1) Every copyright society shall be subject to the collective control of the owners of rights under this Act whose rights are administered by it (not being owners of rights under this Act administered by a foreign society or organization referred to in sub-section (2) of section (42) and shall, in such manner as may be prescribed—

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

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

45. Returns and reports.—(1) Every copyright society shall, within the prescribed time and in the prescribed manner, prepare, publish and file with the Registrar, statements of all fees, charges or royalties which it proposes to collect for the grant of licenses for the works in respect of which it has authority to grant such licenses and such other returns and statements as may be prescribed.

(2) Any officer duly authorized by the Government in this behalf may call for any report or records of any copyright society for the purpose of satisfying himself that the fees collected by the society in respect of rights administered by it are being utilized and distributed in accordance with the provisions of this Act.

46. Accounts and Audit.—(1) Every copyright society shall maintain its proper accounts and other relevant records and prepare annual statement of accounts, in such form and in such manner as may be prescribed by the Government in consultation with the Comptroller and Auditor-General.

(2) The accounts of each of the copyright societies in relation to the payments received from the Government shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the copyright society to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General or any other person appointed by him in connection with the audit of the accounts of the copyright society referred to in sub-section (2) shall have the same rights and privileges and authority regarding such audit as the Comptroller and Auditor-General has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts and other documents and papers and to inspect any of the offices of the copyright society for the purpose only of such audit.

47. Savings.—(1) Nothing in this chapter shall affect the rights or liabilities in any work in connection with a performing rights society which had accrued or were incurred before the commencement of this Act.

(2) Nothing in this chapter shall affect any legal proceedings in respect of any rights and liabilities in any work in connection with a performing rights society which had accrued or were incurred before the commencement of this Act.

CHAPTER-9

LICENSES

48. Licenses 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 copyright by license signed by him or by his duly authorized agent :

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

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

49. Applications of section 19 and 20.—The provisions of sections 19 and 20 shall, with necessary adaptations and modifications, apply in relation to a license under section 48 as they apply in relation to assignment of copyright in a work.

50. Compulsory license in works withheld from public.—(1) If at any time during the term of copyright in any Bangladeshi work which has been published or performed in public, an application is made to the Board that the owner of the 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, the 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 such refusal is not in the public interest, or that the grounds for such refusal are not reasonable, direct the Registrar to grant to the applicant a license 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 Board may determine, and thereupon the Registrar shall grant the license to the applicant in accordance with the directions of the Board, on payment of such fees as may be prescribed.

Explanation—In this sub-section, the expression “Bangladeshi work” includes a cinematograph film or a sound recording made or manufactured in Bangladesh.

(2) Where two or more-persons have made applications under sub-section (1), the license shall be granted to the applicant or applicants who, in the opinion of the Board, would best serve the interests of the general public.

51. Compulsory license in unpublished Bangladeshi works.—(1) Where, in the case of a Bangladeshi work, 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 make an application to the Board for a license to publish such work or a translation or adaptation 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 Bengali language and in one issue of a daily newspaper in the English language having circulation in Bangladesh and where the application is for the publication of a translation or adaptation in any language, also in one issue of any daily newspaper in that language, provided that a newspaper in that language is published in Bangladesh.

(3) Every such application shall be made under sub-section (2)—

- (a) in such form as may be prescribed,
- (b) shall be accompanied with a copy of the advertisement issued under sub-section (2),
- (c) shall be accompanied by such fees as may be prescribed.

(4) Where an application is made to the Board under this section, it may, after holding such inquiry as may be prescribed, direct the Registrar to grant to the applicant a license to publish the work or a translation or adaptation 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 Board may determine, and thereupon the Registrar shall grant the license to the applicant in accordance with the direction of the Board.

(5) Where a license is granted under this section, the Registrar may, by order, direct the applicant to deposit the amount of the royalty determined by the Board in the account specified by the Board so as to enable the owner of the copyright or, as the case may be, his heirs, executors or 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 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 government under sub-section (6), the 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 Board may, in the circumstance of such case, determine in the prescribed manner.

52. License to produce and publish translation.—(1) Any person may apply to the Board for a license to produce and publish a translation or adaptation of a literary or dramatic work in any language in general use in Bangladesh after a period of 5 (five) years from the first publication of the work.

(2) Notwithstanding anything contained in sub-section (1), any person may make an application to the Board for a license to produce and publish a translation or adaptation, in printed or analogous forms of reproduction, of a literary or dramatic work, other than a Bangladeshi work, in any language in general use in Bangladesh 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 or adaptation is in a language not in general use in any developed country, a person may make such application after a period of one year from the publication of such work.

(3) Every application under sub-sections (1) and (2) shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation or adaptation of the work.

(4) Every applicant for a license under sub-section (1) and (2) shall, along with his application, deposit with the Registrar such fees as may be prescribed.

(5) Where an application is made to the Board under sub-sections (1) and (2), it may, after holding such inquiry as may be prescribed, direct the Registrar to grant to the applicant a license, not being an exclusive license, to produce and publish a translation or adaptation of the work in the language mentioned in the application.

(6) The direction under sub-section (5) by the Board shall be subject to the conditions that,—

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

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- (b) where the license is granted on an application under sub-section (2), the license shall not extend to the export of copies of the translation of the work outside Bangladesh and every copy of such translation shall contain a notice in the language of such translation or adaptation that the copy is available for distribution only in Bangladesh :

provided that this clause shall not apply to the export by the Government or any authority under the Government of such copies of the translation or adaptation of the work in a language other than English, French or Spanish to any country if—

- (i) such copies are sent to citizens of Bangladesh residing outside Bangladesh or to any association of such citizens outside Bangladesh; or commencement
- (ii) such copies are meant to be used for purposes of teaching, scholarship or research and not for any commercial purpose; and
- (iii) in either case, of above (i) and (ii); the permission for such export has been given by the Government of that country :

provided further that, no license under sub-section (1) shall be granted unless—

- (i) a translation or adaptation 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 authorized by him within five years of the first publication of the work, or if a translation has been so published, it has been out of print;
- (ii) no license under the said the sub-section shall be granted except the application made under the proviso to sub-section (2), unless a translation of the work in the language mentioned in the publication has not been published by the owner of the copyright in the work or any person authorized by him within three years of the first publication of the work, or if a translation has been so published, it has been out of print;

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- (iii) no license under the proviso to sub-section (2) shall be granted, unless 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 authorized by him within one year of the first publication of the work, or if a translation has been so published, it has been out of print:

provided further that in either of the case, no license shall be granted unless—

- (i) the applicant has proved to the satisfaction of the Board that he had requested and had been denied authorization by the owner of the copyright to produce and publish such translation or adaptation, or that he was, after due diligence on his part, unable to find the owner of the copyright; or he has demanded more unreasonable royalties than the normal selling prices, prevailing in Bangladesh by imposing unreasonable conditions for publication of the translation or adaptation.
- (ii) where the applicant is unable to find the owner of the copyright, he had sent a copy of his request for such authorization by registered air mail post to the publisher whose name appears from the work, not less than two months before the application for the license;
- (c) a period of six months in the case of an application under sub-section (2), except an application under the proviso thereto, or nine months in case of an application under the proviso to that sub-section, has elapsed from the date of making the request under clause (a), or where copy of the request has been sent under clause (b) 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 authorized by him within the said period of six months or nine months, as the case may be;

- (iv) in the case of any application under sub-section (2)—
- (1) the name of the author and the title of the particular edition of the work proposed to be translated are printed on all copies of the translation;
 - (2) if the work is composed mainly of illustrations, the provisions of section 53 are also complied with;
- (v) the Board is satisfied that the applicant is competent to produce and publish a correct translation or adaptation of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section.
- (vi) the author has withdrawn from circulation copies of the work; and
- (vii) an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work.

(7) Any broadcasting authority may apply to the Board for a license to produce and publish the translation of—

- (a) a work referred to in sub-section (2) and published in printed or analogous form 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 purpose of teaching or for the dissemination of the results or specialized, technical or scientific research to the experts in any particular field :

provided that such license shall not be granted unless—

- (i) the translation or adaptation is made from work made and acquired in accordance with law;
- (ii) 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 Bangladesh by the applicant or any other broadcasting agency;
- (d) the translation and the broadcasting of such translation are not used for any commercial purposes.

(8) The provisions of sub-sections (3)–(5), in so far as they are applicable to an application under sub-section (2), shall, with necessary modifications, apply to the grant of a license under sub-section (7).

Explanation.—For the purposes of this section—

- (a) “purpose of research” does not include the purpose of industrial research, or purpose of research by body corporate (except body corporate owned or controlled by the Government) or other societies or body of persons for commercial purposes;
- (b) “purpose of teaching, research or scholarship” includes purposes of instructional activity at all levels in educational institutions, including schools, colleges, universities and tutorial institutions and purposes of all other types of organized educational activities.

53. License to reproduce and publish works for certain purposes.—(1)

Where, after the expiry of seven years from the date of the first publication of a work of a novel, poetry, drama, music or art or any work relating thereto, or three years from the date of the first publication of a work of natural science, physical science, mathematics or technology or any work relating thereto and five years from the date of the first publication of a work in any other case, the copies of such work are not made available in Bangladesh, or such copies have not been put on sale in Bangladesh for a period of six month, to the general public, or in connection with systematic instructional activities at a price reasonably related to the normal charge in Bangladesh for comparable works by the owner of the right of reproduction or by any person authorized by him in this behalf, any person may apply to the Board for a license to reproduce and publish such work in printed or analogous forms of reproduction at the price at which an edition of such work 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, stating the proposed retail price of a copy of the work to be reproduced.

(3) Every applicant for a license under this section shall, along with the application, deposit such fees as may be prescribed.

(4) Where an application is made to the Board under this section, it may, after holding such inquiry as may be prescribed, direct the Registrar to grant to the applicant a license, not being an exclusive license, to produce and publish a reproduction of the work mentioned in the application on conditions of :—

- (a) paying to the owner of the copyright in the work by the applicant royalties in respect of copies of reproduction of the work sold to the public, calculated at such rate as the Board may, in the circumstances of each case, determine in the prescribed manner;
- (b) prohibiting extension of the license granted under this section to the export of copies of the reproduction of the work outside Bangladesh; and
- (c) containing on every copy of such reproduction a notice that the copy is available for sale and distribution only in Bangladesh.

(5) No license under this section shall be granted or has been kept effective after granting the license, as the case may be, unless—

- (a) the applicant has proved to the satisfaction of the Board that he had requested and had been denied authorization by the owner of the copyright in the work to translate or reproduce and publish such work or that he was, after due diligence on his part, unable to find such owner, and has informed the same to a national or international information centre set for the purpose by some country, where, it is believed that, the head quarter of the publishing house of the said work, is situated;
- (b) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for such authorization by registered airmail post to the publisher whose name appears from the work not less than three months before the application for the license;

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- (c) the 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 Board being a price reasonably related to the price normally charged in Bangladesh 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 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 authorized by him within the said period of six months;
 - (f) a period of three months in the case of an application for reproduction 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 has not been published by the owner of the copyright in the work or any person authorized by him within the said period of three months;
 - (g) 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;
 - (h) the author has not withdrawn the copies of the work from market; and
 - (i) an opportunity of being heard is given, wherever practicable, to the owner of the particular edition of copyright in the work.
- (6) No license to reproduce and publish the translation or adaptation of a work shall be granted under this section unless such translation or adaptation has been published by the owner of the right of translation or any person authorized by him in this behalf and the translation is not in a language in general use in Bangladesh.

(7) The provisions of this section shall apply to the reproduction and publication, or translation into a language in general use in Bangladesh , of any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities.

54. Termination of license granted under this chapter.—(1) If, at any time after granting of a license to produce and publish the translation or adaptation of a work in any language under sub-section (2) of section 52 (hereinafter in this sub-section referred to as licensed work), the owner of the copyright in the work or any person authorized 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 for the translation works of the same standard on the same or similar subject, the license 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 license 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 license before the termination of the license 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 license to produce and publish the reproduction or translation of any work under section 53, the owner of the right of reproduction or any person authorized by him sells or distributes copies of such work or a translation thereof, as the case may be, and which is substantially the same in content at a price reasonably related to the price normally charged for works of the same standard on the same or similar subject, the license 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 license by the owner of the right of reproduction intimating the sale or distribution of the copies of the editions of the work as aforesaid :

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

CHAPTER-10

REGISTRATION OF COPYRIGHT

55. Register of copyright, indexes, form and inspection of Register.—(1)

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

(2) The Registrar shall also keep such indexes of the Register of Copyrights as may be prescribed.

(3) The Register of Copyrights and the indexes thereof kept under this section shall at all reasonable times be open to inspection, and any person shall be entitled to take copies of, or make extracts from, any such Register or index on payment of such fees and subject to such conditions as may be prescribed.

56. Registration of copyrights.—(1) The author or publisher of, or the owner of, or other person interested in the copyright in, any work make an application in the prescribed form accompanied by the prescribed fees to the Registrar for entering particulars of the work in the Register of Copyrights.

(2) On receipt of an application in respect of any work under sub-section (1), the Registrar may, after holding such inquiry as he may deem fit, enter the particulars of the work in the Register of Copyrights and issue a certificate of such registration to the applicant unless, for reasons to be recorded in writing, he considers that such entry should not be made in respect of any work.

57. Registration of assignments etc., of copyrights.—(1) Any person interested in the grant of an interest in a copyright, either by assignment or license, may make an application in the prescribed form, accompanied by the prescribed fees, the original instrument of such grant and a certified copy thereof, to the Registrar for entering the particulars of the grant in the Register of Copyright.

(2) On receipt of an application in respect of any work under sub-section(2), the Registrar shall, after holding such inquiry as he may deem fit, enter the particulars of the grant in the Register of Copyrights unless, for reasons to be recorded in writing, he considers that such entry should not be made in respect of any grant.

(3) The certified copy of the grant shall be retained at the Copyright Office and the original shall be returned to the person depositing it, with a certificate of registration endorsed thereon or affixed thereto.

58. Correction of entries in the Register of Copyrights and indexes, etc.—The Registrar may, in the prescribed cases and subject to the prescribed conditions, amend or alter the Register of Copyrights and the indexes by correcting any error in any name, address or particulars; or correcting any other error which may have arisen therein by accidental slip or omission.

59. Rectification of Register by Copyright Board.—The Board may, on application of the Registrar or of any person aggrieved, 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.

60. Register of Copyrights to be prima facie evidence of particulars entered therein.—(1) the Register of Copyrights and the indexes shall be prima facie evidence of the particulars entered therein and documents purporting to be copies of any entry thereon or extract there from certified by the Registrar and impressed with the seal of the Copyright Office shall be admissible in evidence in all courts without further proof or production of the original.

(2) A certificate of registration of copyright in respect of any work shall be prima facie evidence that copyright subsists in the said work and the person shown in the certificate as the owner of the copyright is the owner of such copyright.

61. 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 56 and section 57, the correction of any entry made in such Register under section 58 and every rectification made under section 59 shall be published by the Registrar in the official Gazette.

CHAPTER-11

DELIVERY OF BOOKS AND NEWSPAPERS TO THE NATIONAL LIBRARY

62. Delivery of books to National Library.—(1) Subject to any rules to be made under this Act, but without prejudice to the provisions contained in section 24 of the printing presses and Publications (Declaration and Registration) Act, 1973, (Act XXIII of 1973), the publisher of every book published in Bangladesh after commencement of this Act shall, notwithstanding any agreement to the contrary, deliver at his own expense, one copy of the book to the National Library within sixty days from the date of its publication.

(2) The Copy delivered to the National Library of Bangladesh shall be a copy of the whole book with all maps and illustrations belonging thereto finished and colored in the same manner as the best copies of the same, and shall be bound, sewed or stitched together and on the best paper on which any copy of the book is printed.

(4) Nothing contained in sub-section (1) shall apply to any second or subsequent edition of a book in which edition no additions alterations either in the letter press or in the maps, book prints or other engravings belonging to the book have been made, and a copy of the first or any other edition of which book has been delivered under this section.

63. Delivery of periodicals and newspapers to National Library.—Subject to any rules to be made under this Act, but without prejudice to the provision contained in section 26 of the Printing Presses and Publications (Declaration and Registration) Act, 1973 (Act XXIII of 1973), the publisher of every periodical or newspaper published in Bangladesh shall deliver, at his own expense, one copy of each issue of such periodicals or newspapers as soon as it is published to National Library.

64. Receipt for books delivered.—The person in charge of National Library (whether called a librarian or by any other name) or any other person authorized by him, to whom a copy of a book is delivered under section 62 or section 63 shall give to the publisher a receipt in writing there of.

65. Penalty.—Any publisher who contravenes any provision of this Act or of any rule made under it shall be punished with a fine which may extend to one thousand taka and, if the contravention is in respect of a book or periodical, shall also be punished with a fine which shall be equivalent to the value of the book or periodical and the court trying the offence may direct that the whole or any part of the fine, realized from him, shall be paid, by way of compensation, to the National library to which the book or periodical or newspaper, as the case may be, ought to have been delivered.

66. Cognizance of offences under this chapter.—(1) No court shall take cognizance of any offence punishable under this chapter save on complaint made by an officer empowered in this behalf by the Government by a general or special order.

(2) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this chapter.

67. Application of this chapter to books, periodicals and newspapers published by Government.—This chapter shall also apply to books, periodicals and newspapers published by, or under the authority of, the Government but shall not apply to books meant for official use only.

CHAPTER-12

INTERNATIONAL COPYRIGHT

68. Provisions as to works of certain international organizations.—(1) The Government may, by notification in the official Gazette, declare that this section shall apply to such organizations as may be specified therein of which one or more sovereign state thereof are members.

(2) Where any work is made or first published by or under the direction or control of any organization to which this section applies; and there would, apart from this section, be no copyright in the work in Bangladesh at the time of making or, as the case may be, of the first publication thereof; and either 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 of the copyright, if any, in the work; or under section 17 any copyright in the work would belong to the organization; there shall subsist copyright in the work throughout Bangladesh.

(3) Any organization 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.

69. Power to extend copyright to foreign works.—(1) The Government may, by order published in the official Gazette, direct that all or any of the provisions of this Act shall apply in the following cases subject to the provisions of this chapter, namely:—

- (a) to works first published in a foreign country to which the order relates in like manner as if they were first published within Bangladesh;
- (b) to unpublished works, or any class thereof, the authors whereof were at the time of making of the work, subject or citizens of a foreign country to which the order relates, in like manner as if the authors were citizens of Bangladesh;
- (c) in respect of domicile in a foreign country to which the order relates in like manner as if such domicile were in Bangladesh;
- (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 Bangladesh 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 Bangladesh has entered into a treaty or which is a party to a convention relating to copyright to which Bangladesh is also a party), the Government shall be satisfied that the foreign country has made, or has undertaken to make, such provisions if any, as it appears to the Government expedient to require for the protection in that country of works entitled to copyright under the provisions of this Act;

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- (ii) the order may provide that the provisions of this Act shall apply either generally or in relation to such classes of works or such classes of cases as may be specified in the order;
 - (iii) the order may provide that the term of copyright in Bangladesh shall not exceed that conferred by the law of the foreign to which the order relates;
 - (iv) the order may provide that the provisions of this Act as to delivery of copies of books to the National Library shall not apply to works first published in such foreign country except so far as provided by the order;
 - (v) in applying the provisions of this Act as to ownership of copyright, the order may make such exception and modification as appears 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 works made or first published, 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;
 - (vi) 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.

(2) The government may apply the provisions of sub-section (1) in case of the actors and producers of sound recording and broadcasting authority outside Bangladesh.

70. Power to restrict rights in works of foreign authors first published in Bangladesh.— If it appears to the Government that a foreign country does not give, or has not undertaken to give, adequate protection to the works of Bangladeshi authors, the 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 Bangladesh 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 Bangladesh, and thereupon those provisions shall not apply to such works.

CHAPTER-13

INFRINGEMENT OF COPYRIGHT

71. When copyright infringed.—Copyright in a work shall be deemed to be infringed—

- (a) when any person, without a license granted by the owner of the copyright or the Registrar under this Act or in contravention of the conditions of a license 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 Bangladesh, any infringing copies of the work.

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”.

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

- (1) Fair use of a literary, dramatic, musical or artistic work for the purpose of—
 - (i) private study or private use including research; or
 - (ii) criticism or review, whether of that work or any other work;

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- (2) fair use of 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;

- (3) 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;
- (4) the reproduction of any literary, dramatic, musical or artistic work in any work prepared by the Secretariat of Parliament exclusively for the use of the Members of Parliament;
- (5) 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;
- (6) the reading or recitation in public of any reasonable extract from a published literary or dramatic work;
- (7) the publication in a collection, mainly composed of non-copyright matter, bonafide 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.

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- (8) the reproduction or adaptation of a literary, dramatic, musical or artistic work by a teacher or a pupil in the course and for the sole purpose of instruction; or as part of the questions to be answered in an examination; or in answer to such question;
 - (9) the publication or 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 a cinematograph film or a sound recording, 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;
 - (10) the making of sound recordings in respect of any musical work with its words, if—
 - (i) sound recordings of that work have previously been made by, or with the license of, the owner of the copyright in the work; and
 - (ii) the person making the sound recordings has given a notice in the prescribed manner of his intention to make the sound recordings, has provided copies of all covers or labels with which the sound recordings are to be sold, and has paid in the prescribed to the owner of the copyright in the work royalties in respect of all such sound recordings to be made by him, at the rate fixed by the Board in this behalf :

Provided that—

- (1) the person making such sound recordings shall not make any alteration in, or omissions from, the work, unless such alterations or omissions have been made previously by, or with the license of, the owner of the copyright, or unless such alteration or omissions are reasonably necessary for the adaptation of the work for the purpose of making the sound recordings;
- (2) the sound recordings shall not be issued in any form of packaging or with any label which is likely to mislead or confuse the public as to their identity;

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- (3) no such sound recording shall be made untill the expiration of two calendar years after the end of the year in which the first sound recording of the work was made; and
 - (4) the person making such sound recordings shall allow the owner of the copyright or his duly authorized agent or representative to inspect all records and books of account relating to such sound recording;

Provided further that if a complaint is brought before the Board the effect that the owner of the copyright has not been paid in full for any sound recordings purporting to be made in pursuance of this clause and if the Board is *prima facie*, satisfied that the complaint is genuine, it may pass an order *ex parte* National Library directing the person making the sound recordings to cease from making further copies and, after holding such inquiry as it considers necessary, make such further order as it may deem fit, including an order for payment of royalty.

- (11) the causing of a recording to be heard in public by utilizing it at any premises (except a hotel or similar commercial establishment) where persons reside, as part of the amenities provided exclusively or mainly for residents therein; or as part of the activities of a club, society or other organization which is not established or conducted for profit;
- (12) 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, charitable or educational institution;
- (13) the reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topics, unless the owner of copyright of such article has expressly reserved to himself the right of such reproduction;
- (14) the publication in a newspaper, magazine or other periodical of a report a lecture delivered in public;
- (15) 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 non-profit library available for use by the public free of charge or a library attached to an educational institution for the use of such library if such book is not available for sale in Bangladesh.

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- (16) the reproduction, for the purpose of research or private study 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 provision of this clause shall apply only if such reproduction is made at a time more than sixty years from the date of the death of the author or, in the case of a work of joint authorship, 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 one of those authors who dies last;

- (17) the reproduction or publication of the following namely :—

- (i) any matter which has been published in any official Gazette except an Act of Parliament;
- (ii) the report of any committee, commission, council, board or such other bodies appointed by the Government unless the reproduction or publication of such matter or report is prohibited by the Government;
- (iii) any Act of Parliament subject to the condition that such Act is reproduced or published together with any commentary thereon or any other original matter;
- (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;

- (18) the production or publication of a translation in any language of an Act of Parliament and of any rules or orders made there under namely :—

- (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 authorized or accepted as authentic by the Government;

- (19) the making or publishing of a painting, drawing, engraving or photograph of architecture or the display of a work of architecture;
- (20) the making or publishing of painting, drawing, engraving or photograph of a sculpture or other artistic work falling under section 36 (c), if such work is permanently situated in public place or any premises to which the public has access;
- (21) the inclusion in a cinematograph film of—
 - (i) any artistic work permanently situated 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;
- (22) 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, 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;

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

Provided that the original construction was made with the consent or license of the owner of the copyright in such drawings or plan;

- (24) 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 acknowledgement—

- (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;
- (25) the making of copies or adaptation of a computer programme by the lawful possessor of a copy of such computer programme, from such copy—
- (i) in order to utilize the computer programme for the purpose for which it was supplied; or
 - (ii) to make back-up copies purely as a temporary protection against loss, destruction or damage in order only to utilize the computer programme for the purpose for which it was supplied;
 - (iii) for further upgrading of a computer programme.
- (26) the making of an ephemeral recording, by a broadcasting organization using its own facilities for its own broadcast by a broadcasting organization of a work which it has the right to broadcast, and the retention of such recording for archival purposes on the ground of its exceptional documentary character;
- (27) the performance of a literary, dramatic or musical work or the communication to the public of such work or of a sound recording in the course of any bona-fide religious ceremony or an official ceremony held by the Government or any local authority.

Explanation.—(1) For the purposes of this clause, religious ceremony includes a marriage procession and other social festivities associated with a marriage.

(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.

73. Particulars to be included in sound recordings and video films.—(1) No person shall publish a sound recording in respect of any work unless the following particulars are displayed on the sound recording and on any container thereof, namely :—

- (a) the name and address of the person who has made the sound recording;
- (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, or on the video cassette or other container thereof, namely:—

- (a) the name and address of the person who has made the video film;
- (b) a declaration by such person that he obtained the necessary license from the owner of the copyright in such work for making such video film;
- (c) the name and address of the owner of the copyright in such work; and
- (d) if such work is a cinematograph film required to be certified for exhibition under the provisions of section 4 of the Censorship of Films Act, 1963, (Act XVIII of 1963), a copy of the certificate granted in respect of such work under the said section.

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

(2) Subject to any rules to be made under this Act, the Registrar or any person authorized by him in this behalf may enter into any air-craft, ship, vehicle, 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 sub-section (1) applies shall be deemed to be goods of which the bringing into Bangladesh has been prohibited or restricted under section 16 of the Customs Act, 1969, (Act IV of 1969) and all the provisions of said Act shall have effect accordingly :

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.

CHAPTER-14

CIVIL REMEDIES

75. Definition.—For the purposes of this chapter, unless the context otherwise requires, the expression, “owner of the 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 publisher, that author or his legal representative.

76. Civil remedies for infringement of copyright.—(1) Where copyright in respect of any work or any other right conferred by this Act has been infringed, the owner of the copyright or such other right, as the case may be, 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 that copyright subsisted in the work and he had reasonable ground for believing that copyright did not subsist 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 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.

77. Protection of separate rights.— Subject to the provisions of this Act, where the several rights comprising the copyright in any work are owned by different persons, the owner of any such right shall, to the extent of that right, be entitled to 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.

78. Author's special rights.—(1) Notwithstanding that the author of a work may have assigned or relinquished the copyright in the work, he shall have the right to claim the authorship of the work as well as the right to restrain, or claim damages in respect of any distortion, mutilation or other modification of the said work, or any other action in relation to the said work which would be prejudicial to his honour or reputation :

Provided that the author shall not have any right to restrain or claim damages in respect of any adaptation of a computer programme to which clause (y) of sub-section (1) of section 72 applies.

Explanation.—Failure to display a work or to display it to the satisfaction of the author shall not be deemed to be an infringement of the rights conferred by this section.

(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.

79. 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, and in case of a computer programme related source code, compilation, data, design documentation and relevant charts, 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.

80. Owner of copyright to be party to the proceeding.—(1) In every civil suit or other civil proceeding regarding infringement of copyright instituted by an exclusive licensee, the owner of the copyright shall, unless the court otherwise directs, be made a defendant and where such owner is made a defendant, he shall have the right to dispute the claim of the exclusive licensee.

(2) Where any civil suit or other civil proceeding regarding infringement of copyright instituted by an exclusive licensee is successful, no fresh suit or other civil proceeding in respect of the same cause of action shall lie at the instance of the owner of the copyright.

81. Jurisdiction of court.—Every civil suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the court of District Judge within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceeding, the person instituting the suit or other proceeding or, where there are more than one such person, any of them actually and voluntarily resides or carries on business or personally works for gain.

CHAPTER-15**OFFENCES AND PENALTIES**

82. Offences of infringement of copyright or other rights conferred by this Act.—(1) Any person who willingly infringes or abets the infringement of the copyright in a work, or any other right conferred by this Act, except the right conferred by section 23, other than in the case of cinematograph film, shall be punished with imprisonment for a term which may extend to four years but not less than six months and with fine which may extend to taka two lakh but not less than taka 50,000 (fifty) thousand :

Provided that if it is proved to the satisfaction of the court that the infringement has not been made for gain in the course of trade or business, the court may impose a sentence of imprisonment for a term of less than six months and a fine of less than taka fifty thousand.

(2) Any person who willingly infringes or abets the infringement of copyright in a cinematograph film, shall be punished with imprisonment which may extend to five years but not less than one year and with a fine of not exceeding five lakh but not less than one lakh.

83. Enhanced penalty for second and subsequent offences.—Whoever having already been convicted of an offence under section 82 is again convicted of any such offence shall be punished for the second and for every subsequent offence, with imprisonment for a term which may extend to three years but not less than one year and with fine which may extend to taka three lakh but not less than taka one lakh :

Provided that if it is proved to the satisfaction of the court that the infringement has not been made for gain in the course of trade or business as described in section 82(1), the court may impose a sentence of imprisonment for a term of less than one year and a fine of less than taka one lakh :

Provided further that for the purposes of this section, no cognizance shall be taken of any conviction made before the commencement of this Act.

84. Offence relating to publication, use etc of infringing copy of computer programme.—Any person who—

- (a) infringes the copyright in a work of computer programme, publishes it in any medium, sells or distributes it more than one copy, shall be punished with imprisonment for a term which may extend to four years and shall not be less than six months or with fine which may extend to taka four lakh and shall not be less than taka one lakh.
- (b) uses an infringed copy in computer shall be punished with imprisonment which may extend to 3 (three) years but not less than six months or with a fine which may extend to taka three lakh and not less than taka one lakh :

Provided that if it is proved to the satisfaction of the court that the infringement has not been made for gain in the course of trade or business, the court may impose any sentence of imprisonment for a term of less than three months and a fine of less than taka twenty five thousand.

85. Possession of plates for the purpose of making infringing copies.—Any person who knowingly makes or has in his possession any plate and copies for the purpose of making infringing copies of any work in which copyright subsist, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, shall be punished with imprisonment which may extend to two years or with fine which may extend to taka fifty thousand or with both.

86. Disposal of infringing copies or plates for making infringing copies.—The court trying any offence under this Act may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be delivered up to the owner of the copyright or otherwise dealt with, as the court may think fit.

87. Penalty for making false entries in the Register, etc, or producing or tendering false evidence.—Any person who—

- (a) makes or causes to be made a false entry in the Register of Copyrights; or
- (b) makes or causes to be made a writing falsely purporting to be a copy of any entry in the Register; or

(c) produces or tenders or causes to be produced or tendered as evidence any such entry or writing, knowing the same to be false; shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to taka ten thousand or with both.

88. Penalty for making false statements for the purpose of deceiving or influencing any authority.—Any person who—

- (a) with a view to deceiving any authority or officer in the performance of any of his functions under any of the provisions of this Act, or
- (b) with a view to inducting or influencing the doing or omission of anything in relation to this Act or any matter there-under makes a false statement or representation knowing the same to be false, shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to taka twenty five thousand or with both.

89. False attribution of authorship.—Any person who—

- (a) inserts or affixes the name of any person in or on a work of which that person is not the author, or in or on a reproduction of such a work, in such a way as to imply that such person is the author of the work; or
- (b) publishes, or sells or lets for hire, or by way of trade exhibits in public a work in or on which the name of a person has been inserted or affixed in such a way as to imply that such person is the author of the work, or the publisher of the work, who to his knowledge is not the author or the publisher, as the case may be, of such work; or
- (c) does any of the acts mentioned in clause (b) in relation to, or distributes reproductions of a work, being reproductions in or on which the name of a person has been inserted or affixed in such a way as to imply that such person is the author of the work, who to his knowledge is not the author of such work, or performs in public, or broadcasts the work as being the work of a particular author, who to his knowledge is not the author of such work;

shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to taka twenty five thousand or with both.

90. Penalty for contravention of section 73.—Any person who publishes a record or a video film in contravention of the provision of section 73 shall be punished with imprisonment which may extend to three years or with fine which may extend to taka three lakh or with both.

91. Offences by companies.—**(1)** Where any offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for, the conduct of the business of the company, as well as the company shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

- (a) “company” means any body corporate and includes a firm or other association of persons; and
- (b) “director” in relation to a firm means a partner in the firm.

92. Cognizance of offences.—Subject to the provisions contained in section 66, no court inferior to that of a Court of Sessions shall take cognizance of an offence under this Act.

93. Power of police to seize infringing copies.—(1) Any police officer, not below the rank of a sub-inspector, may, if he is satisfied that an offence under section 82 in respect of the infringement of copyright in any work has been or under section 84 in respect of infringement of copyright in computer work, is being, or is likely to be, committed, seize without warrant all copies of the work, and all plates used for the purpose of making infringing copies of the work, wherever found, and all copies and plates so seized shall, as soon as practicable, be produced before a Magistrate.

(2) Any person having an interest in any copies of a work or equipments or materials or plates seized under sub-section (1) may, within 15 (fifteen) days of such seizure, make an application to the Magistrate for such copies or plates being restored to him and the Magistrate, after such hearing the applicant and the complainant and making such further inquiry as may be necessary, shall make such order on the application as he may deem fit.

CHAPTER-16

APPEALS

94. Appeals against certain orders.—Any person aggrieved by an order made under section 86 or sub-section (2) of section 93 may, within thirty days of the date of such order, appeal to the court to which appeals from the court making the order ordinarily lie, and such Appellate Court may direct that execution of the order be stayed pending disposal of the appeal.

95. Appeals against order of Registrar.—(1) Any person aggrieved by any final decision or order of the Registrar may, within three months from the date of the decision or order, appeal to the Board.

(2) The Registrar shall not sit as a member of the Board when the Board hears an appeal under this section.

96. Appeals against order of the Board.—Any person aggrieved by any final decision or order of the Board, except a decision or order made in an appeal under section 95 may, within three months from the date of such decision or order, appeal to the High Court Division:

Provided that no such appeal shall lie against a decision of the Board under section 6.

97. **Computation of limitation.**—In calculating the 3 months period provided for preferring an appeal under this Chapter, the time taken in granting a certified copy of the order or record of the decision appealed against shall be excluded.

98. **Procedure for appeals.**—The High Court Division may make rules consistent with this Act as to the procedure to be followed in respect of appeals made to it under section 96.

CHAPTER-17

MISCELLANEOUS

99. **Registrar and Board to have certain powers of civil court.**—The Registrar and the Board shall have the powers of a civil court when trying a suit under the Code of Civil Procedure (Act v of 1908) in respect of the following matters, namely—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) requisitioning any public record or copy thereof from any court or office;
- (f) any other matter to be prescribed.

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Registrar or the Board, as the case may be, shall be the whole of Bangladesh.

100. **Orders passed by Registrar or Board for payment of money executable as a decree.**—Every order made by the Registrar or the Board under this Act for the payment of any money or by the High Court Division in any

appeal against any such order of the board shall, on a certificate issued by the Registrar, the Board or the Registrar of the Supreme Court, as the case may be, be deemed to be a decree of a civil court and shall be executable in the same manner as a decree of such court.

101. Indemnity.—No suit or other legal proceedings shall lie against any person in respect of anything which is, in pursuance of this Act, done or intended to be done in good faith.

102. Certain persons to be public servants.—Every officer appointed under this Act and every member of the Board shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

103. Power to make rules.—(1) For the purposes of this Act, the Government may, make rules by notification in the official Gazette.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may, make rules for all or any of the following matters, namely:—

- (a) the term of office and conditions of service of the Chairman and other members of the Board;
- (b) the form of complaints and applications to be made, and the licenses to be granted, under this Act;
- (c) the procedure to be followed in connection with any proceedings before the Registrar or the Board;
- (d) the conditions for submission of application under sub-section (2) of section 41;
- (e) the conditions subject to which a copyright society may be registered under sub-section (3) of section 41;
- (f) the inquiry for cancellation of registration under sub-section (4) of section 41;

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- (g) the conditions subject to which the copyright society may accept authorization under clause (a) of sub-section (1) of section 42 and the conditions subject to which the owners of rights have right to withdraw such authorization under clause (b) of that sub-section;
 - (h) the conditions subject to which a copyright society may issue license, collect fees and distribute such fees amongst owners of rights under sub-section (3) of section 42;
 - (i) the manner in which the approval of the owners of rights regarding collection and distribution of fees, approval for utilization of any amount collected as fees and to provide to such owners information concerning activities in relation to the administration of their rights under sub-section (1) of section 44;
 - (j) the returns to be filed by copyright societies to the Registrar under sub-section (1) of section-45;
 - (k) the manner of determining any royalties payable under this Act, and the security to be taken for the payment of such royalties;
 - (l) the manner of paying royalties payable under this Act;
 - (m) the form and the manner in which the copyright society shall maintain accounts and other relevant records and prepare annual statement of accounts and the manner in which the quantum of remuneration is to be paid to individual owner of rights under sub-section (2) of section 42;
 - (n) the form of Register of Copyrights to be kept under this Act and the particulars to be entered therein;
 - (o) the matters in respect of which the Registrar and the Board shall have powers of a civil court;
 - (p) the fees which may be payable under this Act;
 - (q) the regulation of business of the Copyright Office and of all things by this Act placed under the direction or control of the Registrar.

104. Publication of Authentic English Text.—After the Commencement of this Act, the Government may, by notification in the official Gazette, publish an Authentic English Text, which may be known as the Authentic English Text of this Act:

Provided that in the event of any conflict between this Act and the English Text, this Act shall prevail.

105. Repeals, savings and transitional provisions.—(1) The Copyright Ordinance, 1962, (Ordinance no XXXIV of 1962) is hereby repealed.

(2) Where any person has, before the commencement of this Act, taken any action whereby he has incurred any expenditure or liabilities in connection with the reproduction or performance of any work in a manner which at that time was lawful or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the coming into force of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who, by virtue of this Act, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by the Board.

(3) Copyright shall not subsist by virtue of this Act in any work in which copyright did not subsist immediately before the commencement of this Act under any Act or Ordinance repealed by sub-section (1).

(4) Where copyright subsisted in any work immediately before the commencement of this Act, the rights comprising such copyright shall, as from the date of such commencement, be the rights specified in section 14 in relation to the class of works to which such work belongs, and where any new rights are conferred by that section, the owner of such rights shall be—

- (a) in any case where copyright in the work was wholly assigned before the commencement of this Act, the appointed assignee; and
- (b) in any other case, the person who was the first owner of the copyright in the work under any Act or Ordinance repealed by sub-section (1) or his legal representatives.

(5) Except as otherwise provided in this Act, where any person was entitled immediately before the commencement of this Act to copyright in any work or any right in such copyright or to an interest in any such right, he shall continue to be entitled to such right or interest for the period for which he would have been entitled thereto, if this Act had not come into force.

(6) Nothing contained in this Act shall be deemed to render any act done before its commencement an infringement of copyright if that act would not otherwise have constituted such an infringement.

(7) If there is nothing otherwise provided by this section, the General Clauses Act, 1897 (Act X of 1897) shall apply with respect to the effect of repeals.