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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 1st September, 1983/Bhadra 10, 1905 (Saka)

The following Act of Parliament received the assent of the President on the 31st August, 1983, and is hereby published for general information:—

THE COPYRIGHT (AMENDMENT) ACT, 1983

No. 23 OF 1983

[31*st August*, 1983.]

An Act to amend the Copyright Act, 1957.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Copyright (Amendment) Act 1983.

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

14 of 1957.

Substitution of expression "radio-diffusion" by expression "broadcast".

2. Throughout the Copyright Act, 1957 (hereinafter referred to as the principal Act), unless otherwise expressly provided, for the word "radio-diffusion", wherever it occurs, the word "broadcast" shall be substituted

Amendment of section 2

3. In section 2 of the principal Act,—

(*a*) after clause (*d*), the following clause shall be inserted, namely:—

'(*dd*) "broadcast" means communication to the public—

(*i*) by any means of wireless diffusion, whether in any one or more of the forms of signs, sounds or visual images; or

(*ii*) by wire,

and includes a re-broadcast;';

(*b*) after clause (*f*), the following clause shall be inserted, namely:—

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

(*c*) for clause (*l*), the following clause shall be substituted, namely:—

'(*l*) "Indian work" means a literary, dramatic or musical work,—

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

(*ii*) which is first published in India; or

(*iii*) the author of which, in the case of an unpublished work, is, at the time of the making of the work, a citizen of India;';

(*d*) clause (*v*) shall be omitted.

Amendment of section 3.

4 In section 3 of the principal Act, in clause (*a*), for the words "work to the public in sufficient quantities", the words "work, either in whole or in part, to the public in a manner sufficient to satisfy the reasonable requirements of the public having regard to the nature of the work" shall be substituted.

Amendment of section 6.

5. In section 6 of the principal Act, for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) whether for the purposes of section 3, copies of any,—

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

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

Amendment of section 12.

6. In section 12 of the principal Act, in sub-section (7), for the words and figures "sections 480 and 482 of the Code of Criminal Procedure, 1898", the words and figures "sections 345 and 346 of the Code of Criminal Procedure, 1973" shall be substituted.

5 of 1898.
2 of 1974.

Amendment of section 15.

7. In section 15 of the principal Act, the words "Indian Patents and", at both the places where they occur, shall be omitted.

Amendment of section 17.

8. In section 17 of the principal Act,—

(*a*) after clause (*c*), the following clause shall be inserted, namely:—

"(*cc*) in the case of any address or speech delivered in public, the person who has delivered such address or speech or if such person has delivered such address or speech on behalf

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

(*b*) after clause (*d*), the following clause and *Explanation* shall be inserted, namely:—

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

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

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

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

1 of 1956.

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

Amendment of section 19.

9. Section 19 of the principal Act shall be re-numbered as sub-section (*1*) thereof and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

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

Insertion of new section 19A.

10. After section 19 of the principal Act, the following section shall be inserted, namely:—

Disputes with respect to assignment of copyright.

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

Insertion of new section 28A.

11. After section 28 of the principal Act, the following section shall be inserted, namely:—

Term of copyright in works of public undertakings.

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

Insertion of new section 31A.

12. After section 31 of the principal Act, the following section shall be inserted, namely:—

Compulsory licence in unpublished Indian works.

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

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

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

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

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

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

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

Amendment of section 32.

13. In section 32 of the principal Act,—

(*a*) in sub-section (*1*), after the words "in any language", the words "after a period of seven years from the first publication of the work" shall be inserted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

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

Provided that where such translation is in a language not in general use in any developed country, such application may be made after a period of one year from such publication.";

(*c*) in sub-section (*2*), for the words "such application", the words "application under this section" shall be substituted;

(*d*) in sub-section (*4*),—

(*i*) in the opening paragraph, for the portion beginning with the words "the application, on condition that the applicant" and ending with the words "in the prescribed manner:", the following shall be substituted, namely:—

"the application—

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

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

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

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

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

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

(*ii*) in the proviso,—

(*1*) for the words "Provided that no such licence", the words "Provided further that no licence under this section" shall be substituted;

(*2*) in clause (*a*), for the words "within seven years of the first publication of the work", the words "within seven years or three years or one year, as the case may be, of the first publication of the work" shall be substituted;

(*3*) in clause (*b*), for the words "he was unable to find", the words "he was, after due diligence on his part, unable to find" shall be substituted;

(*4*) in clause (*c*),—

(*A*) for the words "such authorisation to the publisher whose name appears from the work", the words, brackets and figure "such authorisation by registered air mail post to the publisher whose name appears from the work, and in the case of an application for a licence under sub-section (*1*)" shall be substituted;

(*B*) for the words "the application for the licence", the words "such application" shall be substituted;

(*5*) after clause (*c*), the following clauses shall be inserted, namely:—

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

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

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

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

(*e*) after sub-section (*4*), the following sub-sections and *Explanation* shall be inserted, namely:—

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

(*a*) a work referred to in sub-section (*1A*) and published in printed or analogous forms of reproduction; or

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

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

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

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

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

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

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

Explanation.—For the purposes of this section,—

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

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

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

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

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

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

Insertion of new sections 32A and 32B.

14. In Chapter VI of the principal Act, after section 32, the following sections shall be inserted, namely:—

Licence to reproduce and publish works for certain purposes.

'32A. (*1*) Where, after the expiration of the relevant period from the date of the first publication of an edition of a literary, scientific or artistic work,—

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

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

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

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

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

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

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

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

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Provided that no such licence shall be granted unless—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Termination of licences issued under this Chapter.

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

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

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

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

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

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

Amendment of section 37.

15. In sub-section (*1*) of section 37 of the principal Act, the words "by radio-diffusion" shall be omitted.

Amendment of section 45.

16. In section 45 of the principal Act, to sub-section (*1*), the following proviso shall be added, namely:—

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

43 of 1958.

Insertion of new section 50A.

17. In Chapter X of the principal Act, after section 50, the following section shall be inserted, namely:—

Entries in the Register of Copyrights, etc., to be published.

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

Amendment of section 52.

18. In sub-section (*1*) of section 52 of the principal Act, in clause (*b*), the following *Explanation* shall be inserted at the end, namely:——

"*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.".

Amendment of section 53.

19. In sub-section (*3*) of section 53 of the principal Act, for the words and figures "under section 19 of the Sea Customs Act, 1878", the words and figures "under section 11 of the Customs Act, 1962", shall be substituted.

8 of 1878.
51 of 1962.

Amendment of section 59.

20. In section 59 of the principal Act, in sub-section (*1*), for the words and figures "the Specific Relief Act, 1877", the words and figures "the Specific Relief Act, 1963" shall be substituted.

1 of 1877.
47 of 1963.

Amendment of section 60.

21. In section 60 of the principal Act, for the words and figures "in section 42 of the Specific Relief Act, 1877", the words and figures "in section 34 of the Specific Relief Act, 1963", shall be substituted.

1 of 1877.
47 of 1963.

Amendment of section 70.

22. In section 70 of the principal Act, for the words "a presidency magistrate or a magistrate of the first class", the words "a Metropolitan Magistrate or Judicial Magistrate of the first class", shall be substituted.

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Amendment of section 78.

23. In section 78 of the principal Act, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.

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