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## **THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT, 2006**

**An Act to repeal and replace the Copyright Act, and to provide for the protection of literary, scientific and artistic intellectual works and their neighbouring rights; and to provide for other related matters.**

DATE OF ASSENT: 31st May, 2006.

*Date of Commencement:* 4th August, 2006.

BE IT ENACTED by Parliament as follows:

### PART I—PRELIMINARY.

#### **1. Short title**

This Act may be cited as the Copyright and Neighbouring Rights Act, 2006.

#### **2. Interpretation**

In this Act, unless the context otherwise requires—

“audio visual fixation” means work consisting of a series of related images which impart the impression motion, with or without accompanying sounds, susceptible of being made visible and where accompanied by sound, susceptible of being audible such as cinema, television or video films;

“author” means the physical person who created or creates work protected under section 5 and includes a person or authority commissioning work or employing a person making work in the course of employment;

“braille” means writing of the blind consisting of raised dots which are read by touching;

“broadcast” has the same meaning assigned to under the Uganda Communications Act;

“broadcasting company” means a company which—

- (a) communicates or carries on transmission or broadcasts programmes of sound, video or data intended for simultaneous reception by the public; or
- (b) provides or supplies audio-visual fixation rental communication or library services;
- (c) provides services by wire or wireless means in such a way that members of the public access the fixation from a place and at a time individually chosen by them;

“choreography” means steps and movements of a dance and “choreographic work” includes any form of dance or body movement communication whether in a dramatic form or not;

“communication to the public” means the operation by which sounds or images or both sounds and images are transmitted to the public whether through broadcast, performance or other means and “public” excludes a family setting or function;

“computer programme” means a set of instructions expressed in any language, code or notation, intended to cause the device having an information processing capacity to indicate, perform or achieve a particular function, task or result;

“copy” means a production of a work in a written, recorded or fixation form or in any other material form, but an object shall not be taken to be a copy of an architectural work unless the object is a building or a model;

“currency point” has the value specified in the 1st Schedule;

“derivative work” means work resulting from adaptation, translation or other transformation of an original work but which constitutes an independent creation in itself;

“economic rights” means the rights specified under section 9;

“fixation” means the embodiment of images or sound or both images and sound in a material form sufficiently stable or permanent, to permit them to be perceived, reproduced or otherwise communicated through a device during a period of more than transitory duration;

“literary work” includes—

- (a) novels, stories or poetic work;
- (b) plays, stage directions, audio-visual scenarios or broadcasting scripts;
- (c) textbooks, histories, biographies, essays or articles;
- (d) encyclopaedias, dictionaries, directories or anthologies;
- (e) letters, reports or memoranda;
- (f) lectures, addresses or sermons; and
- (g) any other work of literature;

“Minister” means the Minister responsible for justice;

“moral right” means the right to claim authorship or performance as is provided in sections 10 and 23;

“moral rights information” means information which identifies the author of the work or performer, the title of the work, the producer of the sound recording or audio-visual fixation, the owner of any right in the work or information about the terms and conditions of use of the work;

“neighbouring rights” include rights of performing artistes in their performances, rights of producers and music publishers and rights of broadcasting companies in their programmes and others as is provided under Part IV;

“performance” means the presentation of a work by actions such as dancing, acting, playing, reciting, singing, delivering, declaiming or projecting to listeners or spectators;

“performer” includes an actor or actress, singer, musician, dancer or other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore;

“producer” means a person who organises and finances the production of an audio visual fixation or sound recording;

“pseudonym” means the fictitious name adopted by an author;

“publication” means the lawful reproduction of a work or of an audio-visual or audio visual sound recording, fixation or of sound recording for availability to the public; and includes public performances and making available of a work on the internet;

“published” means a work or sound recording, tangible copies of which have been made available to the public in a reasonable quantity for sale, rental, public lending or for other transfer of the ownership or the possession of the copies, provided that, in the case of work the making available to the public took place with the consent of the author or other owner of copyright, and in the case of a sound recording, with the consent in writing of the producer of the phonogram or his or her successor in title;

“public performance” means a performance of work which is presented to listeners or spectators not restricted to specific persons belonging to a private group and which exceeds the limits or normal domestic representations;

“programme-carrying signals” means electronically generated carriers transmitting live or recorded material consisting of images, sounds, or both images and sounds in their original, form or any form recognisably derived from the original and emitted to or passing through a satellite situated in extra-territorial space;

“public place” means any building, or conveyance to which for the time being the public are entitled or permitted to have access, with or without payment which may include cinema, concert, dance or video halls, bars, clubs, sports grounds, holiday resorts, circuses, restaurants, counter vehicles, banks or other commercial establishments;

“Registrar” means the Registrar of copyright appointed under section 41;

“reproduction” means the making of one or more copies of a work or sound recording in any manner or form including any permanent or temporary storage of the work or sound recording in electronic form.

“sound recording” means any exclusively aural fixation of sound in a material carrier such as a tape, disc or other similar material but does not include audio visual work including sound.

### **3. Application of the Act.**

This Act applies to any work, including work, created or published before the commencement of this Act, which has not yet fallen into the public domain where the work is—

- (a) created by a citizen of Uganda or a person resident in Uganda;
- (b) first published in Uganda, irrespective of the nationality or residence of the author;
- (c) created by a person who is a national of or resident in a country referred to in section 81 or;
- (d) first published in a country referred to in section 81.

## **PART II—COPYRIGHT PROTECTION AND RIGHTS**

### **4. Author entitled to copyright protection.**

(1) The author of any work specified in section 5 shall have a right of protection of the work, where work is original and is reduced to material form in whatever method irrespective of quality of the work or the purpose for which it is created.

(2) The protection of the author’s work under subsection (1) shall not be subject to any formality.

(3) For the purpose of this section, a work is original if it is the product of the independent efforts of the author.

### **5. Work eligible for copyright.**

(1) The following literary, scientific and artistic works are eligible for copyright—

- (a) articles, books, pamphlets, lectures, addresses, sermons and other works of a similar nature;
- (b) dramatic, dramatic-musical and musical works;
- (c) audio-visual works and sound recording, including cinematographic works and other work of a similar nature;
- (d) choreographic works and pantomimes;
- (e) computer programmes and electronic data banks and other accompanying materials;
- (f) works of drawing, painting, photography, typography, mosaic, architecture, sculpture, engraving, lithography and tapestry;
- (g) works of applied art, whether handicraft or produced on industrial scale, and works of all types of designing;
- (h) illustrations, maps, plans, sketches and three dimensional works relative to geography, topography, architecture or science;
- (i) derivative work which by selection and arrangement of its content, constitute original work;
- (j) any other work in the field of literature, traditional folklore and knowledge, science and art in whatever manner delivered, known or to be known in the future.

(2) Derivative works such as—

- (a) translations, adaptations and other transformations of pre-existing works under subsection (1); and
- (b) collections of pre-existing works like encyclopaedia and anthologies; which by selection and arrangement of their contents constitute original works, shall be protected under this Act as original works.

(3) The protection of a derivative work under subsection (2) shall not affect the protection of the pre-existing work used by a person for derivation purposes.

#### **6. Ideas not protected.**

Ideas, concepts, procedures, methods or other things of a similar nature shall not be protected by copyright under this Act.

#### **7. Public benefit works not protected.**

(1) The right to protection of copyrights under this Act shall not extend to the following works—

- (a) an enactment including an Act, Statute, Decree, statutory instruments or other law made by the Legislature or other authorised body;



- (b) decree, order or other decision by a court of law for the administration of justice and any official translations from them;
- (c) a report made by a committee or commission of inquiry appointed by Government or any agency of Government;
- (d) news of the day namely reports of fresh events or current information by the media whether published in a written form, broadcast, internet or communicated to the public by any other means.

(2) The Government shall be the trustee for the public benefit of the works specified in subsection (1).

## **8. Employed authors and works for Government or international bodies.**

(1) Where a person creates a work—

- (a) in the course of employment by another person;
- (b) on commission by another person or body;

then in the absence of a contract to the contrary, the copyright in respect of that work shall vest in the employer or the person or body that commissioned the work.

(2) Where a person creates work under the direction or control of the Government or a prescribed international body, unless agreed otherwise, the copyright in respect of that work shall vest in the Government or international body.

(3) Vesting of copyright referred to in (1) and (2) above shall apply only to work created within the stipulated schedule of work of an employee.

(4) The moral right in a work made under this section shall always remain with the actual author of the work.

## **9. Economic rights of author.**

The owner of a protected work shall have, in relation to that work, the exclusive right to do or authorise other persons to do the following—

- (a) to publish, produce or reproduce the work;
- (b) to distribute or make available to the public the original or copies of the work through sale or other means of transfer of ownership;
- (c) to perform the work in public;
- (d) to broadcast the work;
- (e) to communicate the work to the public by wire or wireless means or through any known means or means to be known in the future, including making the work available to the public through the internet or in such a way that

members of the public may access the work from a place and at a time individually chosen by them;

- (f) where the work is a pre-existing work, to make a derivative work;
- (g) to commercially rent or sell the original or copies of the work;
- (h) to do, in relation to that work any act known or to be known in the future;
- (i) to reproduce transcription into braille which is accessible to blind persons.

#### **10. Moral rights of author**

- (1) The author of any work protected by copyright shall have a moral right—
  - (a) to claim authorship of that work, except where the work is included incidentally or accidentally in reporting current events by means of media or other means;
  - (b) to have the author's name or pseudonym mentioned or acknowledged each time the work is used or whenever any of the acts under section 9 is done in relation to that work, except where its not practicable to do so; and
  - (c) to object to, and seek relief in connection with any distortion, mutilation, alteration or modification of the work.

(2) The author of a work has a right to withdraw the work from circulation if it no longer reflects the author's convictions or intellectual concepts; and if the author does so, shall indemnify any authorised user of that work who might, in any material way, be affected by the withdrawal.

(3) The moral right under subsection (1) is not assignable to any person, except for purposes of its enforcement.

#### **11. Co-author's right.**

Where work is created by more than one person and no particular part of the work is identified to have been made by each person, such that the work is indistinguishable, all the authors shall be co-owners of the economic rights and the moral rights relating to that work and the co-owners shall have equal rights in that work.

#### **12. Fine art works to have inalienable right in proceeds of sale.**

(1) The author of an applied or fine art work shall have an inalienable right to share in the proceeds of each sale of that work by public auction, through a dealer or by whatever means.

(2) The right to share in the proceeds referred to in subsection (1) shall not include auction for fundraising purposes.

### **PART III—DURATION OF COPYRIGHT AND AUTHORIZED USES OF PROTECTED WORKS**

#### **13. Duration of copyright protection**

(1) The economic rights of an author in relation to a work are protected during the life of the author and fifty years after the death of the author.

(2) The economic rights of the author where the work is of joint authorship, are protected during the life of the last surviving author and fifty years after the death of the last surviving author.

(3) Where the economic rights in a work are owned by a corporation or other body, the term of protection shall be fifty years from the date of the first publication of the work.

(4) Where the work is published anonymously or under a pseudonym, the economic rights of the author are protected for a term of fifty years from the date of its first publication; but where before the expiration of the fifty years the identity of the author is known or is no longer in doubt the economic right shall be protected during the life time of the author and fifty years after the death of that author.

(5) In the case of audio-visual work, sound recording or broadcast, the economic rights of the author are protected until the expiration of fifty years commencing from the date of making the work or from the date the work is made available to the public with the consent of the author.

(6) In the case of a computer program the economic right of the author are protected for fifty years from the date of making the program available to the public.

(7) In the case of photographic work, the economic rights of the author are protected for fifty years from the date of making the work.

(8) The moral rights of an author exist in perpetuity whether the economic rights are still protected or not and that moral right is enforceable by the author or after death his or her successors.

#### **14. Assignment of licence or transfer of a copyright.**

(1) The owner of a copyright may, as if it were movable property—

(a) assign his or her economic rights in a copyright to another person;

(b) licence another person to use the economic rights in a copyright;

(c) transfer to another person or bequeath the economic rights in a copyright in whole or in parts;

(d) transfer to any braille production unit in Uganda the economic rights in the braille translation.

(2) The assignment, licence or transfer of the economic rights in whole or in part under subsection (1) shall not include or imply the assignment, licence or transfer of the moral right.

(3) An assignment or transfer of the economic right under subsection (1) shall be in writing and signed by the owner of the right or by the owner's agent and by the person to whom the rights are being assigned or transferred.

(4) A licence to do an act falling within a copyright may be oral, written or inferred from conduct or circumstances.

(5) An assignment or transfer of the economic right shall be limited to the use, period and country provided in the contract under subsection (3).

(6) Where the ownership of the only copy of one of several copies of a work is assigned, the economic rights relating to the work shall, unless the contrary is stated in writing, not be assigned.

(7) Where a person is entitled, under will, to any original literary, dramatic, musical or artistic work in a material form, but which work was not published before the death of the testator, the economic rights in the work shall, on publication of the work, belong to the person to whom the work is bequeathed unless the contrary is indicated in the will.

## **15. Fair use of works protected by copyright**

(1) The fair use of a protected work in its original language or in a translation shall not be an infringement of the right of the author and shall not require the consent of the owner of the copyright where—

- (a) the production, translation, adaptation, arrangement or other transformation of the work is for private personal use only;
- (b) a quotation from a published work is used in another work, including a quotation from a newspaper or periodical in the form of press summary, where—
  - (i) the quotation is compatible with fair practice; and
  - (ii) the extent of the quotation does not exceed what is justified for the purpose of the work in which the quotation is used, and
  - (iii) acknowledgement is given to the work from which the quotation is made;
- (c) a published work is used for teaching purpose to the extent justified for the purpose by way of illustration in a publication, broadcast or sound or visual recording in so far as the use is compatible with fair practice and acknowledgement is given to the work and the author;
- (d) the work is communicated to the public for teaching purposes for schools, colleges, universities or other educational institution or for professional training or public education in so far as the use is compatible with fair practice and acknowledgement is given to the work and the author;
- (e) the work is reproduced, broadcast or communicated to the public with acknowledgement of the work, in any article printed in a news paper, periodical or work broadcast on current economic, social, political or religious topic unless the article or work expressly prohibits its reproduction, broadcast or communication to the public;

- (f) any work that can be seen or heard is reproduced or communicated to the public by means of photograph, audio-visual work or broadcast to the extent justified for the purpose when reporting on current events;
  - (g) any work of art or architecture in a photograph or an audio-visual or television broadcast is reproduced and communicated to the public where the work is permanently located in a public place or is included by way of background or is otherwise incidental to the main object represented in the photograph or audio-visual work or television broadcast;
  - (h) for the purposes of current information, a reproduction in the press, broadcast or communication to the public is made to—
    - (i) a political speech or a speech delivered during any judicial proceeding; or
    - (ii) an address, lecture, sermon or other work of a similar nature delivered in public;
  - (i) for the purpose of a judicial proceeding, work is reproduced;
  - (j) subject to conditions prescribed by the Minister, a reproduction of a literary, artistic or scientific work by a public library, a non-commercial documentation centre, a scientific institution or an educational institute if the reproduction and the copies made—
    - (i) do not conflict with the normal exploitation of the work reproduced;
    - (ii) do not unreasonably affect the right of the author in the work; and
  - (k) any work is transcribed into braille or sign language for educational purpose of persons with disabilities.
- (2) In determining whether the use made of a work in any particular case is a fair use the following factors shall be considered—
- (a) the purpose and character of the use, including whether the use is of a commercial nature or is for non-profit educational purposes;
  - (b) the nature of the protected work;
  - (c) the amount and substantiality of the portion used in relation to the protected work as a whole; and
  - (d) the effect of the use upon the potential market for value of the protected work.
- (3) The fact that a piece of work is not published shall not of itself prejudice the requirement of fair use in accordance with subsection(2).

## **16. Ephemeral recording**

(1) A broadcasting company may, for the purpose of its own broadcast and by means of its own facilities, make an ephemeral recording of the broadcast, in one or several copies of any work which it is authorised to broadcast.

(2) No copyright shall exist in a broadcast which infringes, or to the extent that it infringes, the copyright in another broadcast.

(3) Subject to subsection (4) all copies of the ephemeral recording shall be destroyed within a period of six months or longer period as may be authorised by the copyright owner.

(4) Where a recording under subsection (1) is of exceptional documentary character, a copy of the recording may be preserved for the National Archives.

(5) The preservation of a copy under subsection (4) does not affect, in any way, the rights of the author in the work that was broadcast.

(6) Whether the recording of a broadcast under subsection(1) is of an exceptional documentary character is a question of fact to be determined having regard to all the circumstances and in particular to the need for the enhancement of the historical or social aspect of life in Uganda.

## **17. Non-exclusive licence**

(1) A person who is a citizen of Uganda or who is ordinarily resident in Uganda may apply to the Minister for a non-exclusive licence—

- (a) to make and publish or to cause to make and publish a translation of a work into the English, Swahili or any Ugandan language and to produce or cause to produce copies from them;
- (b) to reproduce or cause to be reproduced a work which is published, and to publish or cause to be published in a material form the work reproduced.

(2) An application for translation shall not be issued under paragraph (a) of subsection (1) until one year has expired from the date of the publication of the work in a material form.

(3) Where the author of the work has withdrawn all copies of the work from circulation, no licence under paragraph (a) of subsection (1) shall be granted by the Minister in respect of that work.

(4) The Minister shall not grant a licence under paragraph (b) of subsection (1)—

- (a) until the following period commencing from the date of first publication of the work in a material form, has expired—
  - (i) three years in the case of work in a material form of technology or natural or physical science including mathematics;
  - (ii) five years in the case of music or any other related work;
  - (iii) seven years in the case of work of fiction, poetry, drama or for a book of art;

(iv) seven years in the case of an audio-visual fixation.

(5) The licensee under this section shall provide just compensation consistent with standards of royalties normally payable in the case of a licence freely negotiated between any person and the owner of the right, which shall be paid to the owner or owner's agent and if the owner is not known or cannot be found shall be paid to the Registrar who shall avail it to the owner if found.

(6) Where a licence is granted under this section the licensee shall ensure that the translation or reproduction of the work is correct and the published copies include—

- (a) the original title and the name of the author of the work;
- (b) a notice in the language of the translation or reproduction that the copies of the work are for distribution in Uganda and are not for export from Uganda; and
- (c) a reprint of the copyright notice, that is, the symbol © accompanied by the name of the owner of the copyright and the year of first publication, where the work from which the translation or reproduction is made is published with a copyright notice.

## **18. Scope and condition of non-exclusive licence**

(1) A licence issued under section 17 shall—

- (a) be limited to a non-exclusive right to translate the work into the language in respect of which it is granted;
- (b) be limited to non-exclusive right to reproduce the work as provided in the licence;
- (c) be for the purpose of teaching; scholarship or research only;
- (d) not be transferable by the licensee;
- (e) not extend to the export of copies of the work translated under the licence.

(2) The Minister shall not issue a licence under section 17 unless—

- (a) the Minister is satisfied that no translation of that work into the language in question has ever been published in a material form by, or under the authority of the owner of the right of translation or that all previous editions in that language are out of print.
- (b) there has never been a sale or other distribution, authorised by the owner or the owner's agent of the reproduction right, of copies of the particular edition in Uganda to the public or in connection with systematic instructional activities, or that there has been no sale or other distribution during the immediately preceding six months;

- (c) the applicant has requested from the owner of the rights or the owner's agent for the authorisation to reproduce or translate and has been refused unreasonably or in spite of genuine efforts made by the applicant it has not been possible to locate the owner or the owner's agent;
- (d) the applicant has at the time of making the application, sent a notice of the application to the International Copyright Information Centre at the UNESCO, or a national or regional copyright information centre officially designated to that organisation by the government of the country where the author or publisher is believed to have his or her principal place of business;
- (e) where the applicant cannot locate the owner of the rights or the owner's agent the applicant has by registered mail sent copies of the application to the author or publisher whose name appears on the work and also to the national or regional copyright information centre or in the absence of such a centre, has sent a copy of the application to the International Copyright Information Centre of UNESCO.

(3) A licence issued under section 17 shall terminate—

- (a) where copies of an edition of the work translated or reproduced are distributed to the general public in Uganda; or
- (b) translation of the work in the same language and with substantially the same content as the edition for which the licence was granted is published in Uganda by or under the authority of the owner of the right of translation, at a reasonable price; and any copies produced before the termination of the licence may be distributed until the stock is exhausted.
- (c) where copies of the edition of the work are distributed in Uganda in connection with systematic instructional activities, by the owner of the right of production or the owner's agent at a reasonable price if that edition is in the same language and substantially the same in content as the edition published under the licence, and any copies already made before the licence is terminated may continue to be distributed until the stock is exhausted.

## **19. Translation for broadcasting**

(1) A broadcasting company may apply to the Minister for a non-exclusive licence to translate published work or text of an audio-visual fixation where—

- (a) the translation is to be made from a copy lawfully acquired;
- (b) the translation is for broadcast intended for teaching or for dissemination of the results of specialised technical or scientific research to experts in a particular profession by broadcast;



(c) the broadcast under paragraphs (a) or (b) is lawfully made and is intended for reception in Uganda only.

(2) A translation under this section may be exchanged only between the departments or divisions of that licensed company.

(3) A translation made under this section shall not be used for any commercial purpose.

## **20. Records of copyright centres**

The Registrar shall keep up-to-date records of the copyright information centres for ease of reference or contact by the interested persons under sections 17, 18, 19 or other circumstance.

### PART IV—NEIGHBOURING RIGHTS

## **21. Neighbouring rights and persons entitled**

(1) Neighbouring rights are rights attached to the auxiliary role played by performers, producers of sound recording and audio-visual and broadcasting companies through—

- (a) the fulfilment of literary or artistic works;
- (b) the provision of destiny and permanence in works; and
- (c) the diminishing of distance in the publication of works;

respectively, which auxiliary role is dependent on the work of the author and without which the role cannot begin.

(2) The neighbouring rights attached to the auxiliary role of a performer or a producer or a broadcasting company does not in any way affect the copyright in a literary, scientific or artistic work from which it arose.

## **22. Rights of a performer**

(1) A performer shall have the right to authorise—

- (a) the fixation of his or her live performance not previously fixed on a physical medium;
- (b) the broadcasting or communication to the public of his or her unfixed performance except where—
  - (i) it is made from a previously authorised fixation;
  - (ii) the transmission has been authorised by a broadcasting company that transmitted the first performer;

(c) the direct or indirect reproduction of a fixation of his or her performance in manner or form;

(d) the distribution or making available to the public of the original or copies of the fixation of his or her performance through sale or other transfer of ownership.

(2) A performer has the right to enter into contract on terms and conditions that the performer may wish for the use of the performance or fixation by another person.

(3) A performer shall have the right to authorise the commercial rental to the public of the original or copies of the fixation of his or her performance even after the distribution or making available to the public of the original or copies of the fixation by the performer.

(4) A performer shall have the right to authorise the making available to the public of the fixation of his or her performance by wire or wireless means or internet, in such a way that members of the public may access it from a place and at a time individually chosen by them.

### **23. Moral rights of a performer**

(1) A performer has a right—

- (a) to be identified as the performer;
- (b) to have his or her name mentioned each time the performance or the broadcast or communication of the fixation, is used or whenever any of the acts referred to in section 24 is done in relation to a performance, except where it is not practicable to do so;
- (c) to object to and seek relief in connection with any distortion, mutilation, alteration or modification of his or her performance.

(2) The moral right under subsection (1) shall not be assignable to any person, except for the purpose of its enforcement.

### **24. Action not authorized without a specific provision in a contract**

Unless it is specifically provided in a contract, the authorisation to broadcast or communicate a performance does not imply—

- (a) a licence to other broadcasting or companies to transmit the performance;
- (b) authorisation to make a fixation of the performance;
- (c) authorisation to reproduce the fixation where the authorisation granted is to broadcast and communicate a fixation of the performance;
- (d) authorisation to broadcast or communicate the performance from the fixation where the authorisation granted is to make a fixation.

### **25. Authorization in a co-performance**

Where two or more persons take part in the same performance as a group, authorisation for the use, broadcast or communication of the performance shall be given by the leader of the group or the legal representative of the group if any.

## **26. Duration of protection of performer**

The right of a performer under this Act shall be protected for fifty years from the date of the performance.

## **27. Rights of Director**

A director of a performance, sound recording or audio-visual fixation has a right—

- (a) to be identified as the director;
- (b) to have his or her name mentioned each time a performance, sound recording or audio-visual fixation is used or whenever any acts referred to in section 24 is done in relation to the work except where it is not practicable to do so;

## **28. Rights of producer**

(1) A producer of a sound recording or audio-visual fixation shall have a right to authorise the reproduction of that sound recording or audio-visual fixation.

(2) A producer of sound recording or audio-visual fixation shall have the right to authorise the distribution or making available to the public of the original or copies of the fixation through sale or other transfer of ownership.

(3) A producer of sound recording or audio-visual fixation shall have the right to authorise the commercial rental to the public of the original or copies of the fixation even after the distribution or making available to the public of the original or copies of the fixation by the producer.

(4) A producer of sound recording or audio visual fixation shall have the right to authorise making available to the public of the fixation, by wire or wireless means, in such a way that members of the public may access the fixation from a place and at a time individually chosen by them.

(5) No person shall reproduce, distribute or make available to the public a sound recording or audio-visual fixation without the authorisation of the producer under this section.

(6) For the purposes of this section, reproduction of a copy of a sound recording or an audio-visual fixation shall be unlawful if, with or without imitating the outward characteristics of the original work, it incorporates all or part of the sound or image with or without sound and without authorisation.

(7) Where a sound recording or audio-visual fixation for commercial advertisement or its reproduction is used for broadcasting or for any other form of communication to the public, the user shall not require the authorisation of the producer, but shall pay an equitable remuneration to the producer and the performer.

(8) The rights of the producer under this section shall be protected for fifty years from the date of the cutting of the matrix.

## **29. Duty to indicate moral right information**

(1) The producer or publisher has a duty to indicate on the book, cable of the disc or tape or the container—

- (a) the name of the author and those of the main performer or performers if any;
- (b) the title of the work;
- (c) the year of the cutting of the original matrix or of first publication of the book;
- (d) the name (whether individual or body corporate) or distinguishing mark of the producer or publisher; and
- (e) that the rights of the producer or publisher are reserved.

(2) For the purposes of paragraph (a) of sub-section (1) a choir, orchestra, theatre company or author shall be referred to by the proper name and by the name of the leader if any.

(3) The producer may indicate on the cable of the disc or tape or the container any information about the terms and conditions of use of fixation.

### **30. Notice of protection of producer's rights**

(1) Where copies of a sound recording or audio-visual fixation are made for commercial purposes there shall be printed on the copies a notice consisting of—

- (a) the symbol ©; and
- (b) the year of first publication of the sound recording or audio-visual fixation placed in a manner that gives reasonable notice of claim of protection of the rights of the producer.

(2) Where the copies of sound recording, audio-visual fixation or their containers do not identify—

- (a) the producer;
- (b) the producer's licence in relation to that sound recording or fixation; or
- (c) the description or trade mark of the producer;

the notice shall include the name of the person who owns the rights of the producer.

(3) Where the copies of a sound recording, audio-visual fixation or their containers do not identify the principal performers the notice shall include the name of the person who owns the rights of the performers.

(4) The coming into force of this Act shall not affect the right of any person to use, in accordance with the provisions of this Act, any fixation or reproduction made in good faith before the coming into force of this Act.

### **31. Remuneration for broadcasting**

(1) If a sound recording or audio-visual fixation published for commercial advertisement purposes, or a reproduction of that sound advertisement recording or audio-visual fixation is used directly or indirectly for broadcasting or other

communication to the public, or is publicly performed, unless otherwise agreed, a single equitable remuneration for the performer or performers and the producer of the sound recording or audio-visual fixation shall be paid by the user to the producer.

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

(3) Sound recording or audio visual-fixation published for commercial advertisement and made available to the public by internet, wire or wireless means in such a way that members of the public may access it from a place and at a time individually chosen by them shall, for the purposes of this section, be subject to subsection (1).

### **32. Rights of a broadcasting company**

(1) A broadcasting company shall have the right to authorise or prohibit—

(a) the broadcasting of its broadcast;

(b) the fixation of its broadcasts; or

(c) the reproduction of a fixation of its broadcasts except where—

(i) the fixation used to make the broadcast is made without authorisation;  
or

(ii) the broadcast is initially fixed in accordance with the provisions of this Act but the reproduction is made for purposes other than those specified.

(2) The rights of a broadcasting company under this section shall be protected for fifty years from the date the first broadcast takes place.

### **33. Producers of programme carrying signals**

A producer of programme carrying signals transmitted through the point to point communication intellects shall have the right to authorise further transmission of the signal in Uganda or from its territory which right shall exist for fifty years from the date of publication of the programme.

### **34. Limitation on neighbouring rights**

The provisions of sections 24, 27, 28, 29, 30, 33 shall not apply where the acts done are for—

(a) private use;

(b) the reporting of current event, except that no more than short excerpts of a performance, sound recording or audio-visual performance fixation or broadcast are used;

(c) teaching science, or

- (d) quotations in the form of short excerpts of a performance, sound recording, audio-visual fixation or fixation or broadcast, which are compatible with fair use and are justified by the informative purpose of the quotations.

PART V—CONTRACTS RELATING TO THE EXPLOITATIONS  
OF RIGHTS.

**35. Contracts to be in writing**

Any contract relating to the exploitation of the author's rights or the performer's rights shall be in writing and signed or marked by the parties to the contract.

**36. Publishing contracts**

(1) Subject to section 40, the author, his or her successor in title or agent shall, in a publishing contract, transfer to the publisher against payment of a remuneration, the right to publish his or her work in a material form and distribute that work to the public.

(2) A publishing contract made under this section may specify—

- (a) the period, the territory and the language for which the right is transferred;
- (b) the exclusive or non-exclusive nature of the right transferred;
- (c) the period within which the work of the contract is to be published which period shall not exceed eighteen months from the date of the making of the contract;
- (d) the amount of the author's remuneration and mode of payment.

**37. Public performance contracts**

(1) Subject to section 40, the author, performer, successor in title or agent shall, in a public performance contract, transfer to a person or body, the right to perform in public his or her literary, dramatic, dramatic-musical or musical work against payment of remuneration.

(2) A performance contract made under this section may specify—

- (a) the exclusive or non-exclusive nature of the rights transferred;
- (b) the period for which the right is transferred or the number of performances to be effected;
- (c) the period within which the performance or performances are to be effected, which shall not exceed two years from the date of the making of the contract;
- (d) the territory for which the right is transferred;
- (e) the type of performance; and
- (f) the amount of the author's remuneration and mode of payment.

**38. Broadcasting contracts**

(1) Subject to section 40, the author, performer, successor in title or agent shall, in a broadcasting contract, transfer to a company involved in radio or, television broadcasting or the supplier of audio-visual communication services or other form of broadcast, the right to broadcast his or her literary dramatic, dramatic-musical or musical work against payment of remuneration.

(2) A broadcasting contract made under this section may specify—

- (a) the exclusive or non-exclusive nature of the right transferred;
- (b) the period for which the right is transferred or the number of times the work shall be broadcast;
- (c) the language in which the work is to be broadcast;
- (d) the territory in which the work is to be broadcast; and
- (e) the amount of the author's remuneration and mode of payment.

### **39. Voidable contracts**

Any contract made under this Part of this Act which does not include any item specified in respect of the respective contract or any contract which contravenes a relevant provision of this Part of this Act is voidable.

### **40. Remuneration payable to author**

The remuneration to be paid to an author under this Part of the Act shall be that agreed upon by the parties in respect of—

- (a) proceeds from the exploitation of the authors' work, where practicable; or
- (b) a reasonable lump sum to off set the expenses incurred by the creation of the work, plus a reasonable profit.

## PART VI—GENERAL PROVISIONS RELATING TO ADMINISTRATION OF COPYRIGHT

### **41. Registrar of copyright and other officers**

(1) The Minister may, on the recommendation of the board of the Uganda Registration Services Bureau appoint a Registrar of Copyright.

(2) The Board of Directors of the Uganda Registration services Bureau may appoint such number of assistant registrars, copyright inspectors and other officers as may be necessary for the efficient discharge of the duties and functions of the Registrar of copyrights under this Act.

(3) The assistant registrars, copyright inspectors and other officers shall report and be subject to the direction of the Registrar.

### **42. Functions of the registrar**

The Registrar shall—

- (a) process applications for licences to be issued by the Minister under section 17;

- (b) register works and productions to be registered under this Act;
- (c) register collecting societies;
- (d) give guidance to and discipline collecting societies;
- (e) register assignments, licences and transfers of copyrights;
- (f) register copyright contracts relating to exploitation of rights;
- (g) provide copyright and neighbouring rights information service to the public and users of copyright works;
- (h) in collaboration with the collecting societies, advise Government, on matters relating to copyright and neighbouring rights;
- (i) perform any other duty or function relating to copyrights, neighbouring rights and collecting societies as may be necessary for the better functioning of this Act or as the Minister may by regulation prescribe.

(2) The Registrar's office shall be the National Copyright Information Centre.

#### **43. Registration of rights**

(1) The owner of a copyright or a neighbouring right may register the right with the Registrar for the purpose of—

- (a) keeping evidence of ownership of the right;
- (b) identification of works and authors;
- (c) maintenance of record of the rights;

(2) Any holder of an assignment, licence or transfer of a copyright or neighbouring right may register the assignment, licence or transfer with the Registrar for the purpose of—

- (a) keeping evidence of the assignment, licence or transfer of the copyright;
- (b) maintenance of record of the rights;
- (c) publication of the assignment, licence or transfer.

(3) Any person entering into a copyright or neighbouring right contract may register the rights in the contract.

(4) A piece of work which is creating the right shall be reduced in a material form before the owner of the right can register the right.

(5) A copy of the work or contract which is creating the right for registration shall be deposited with the Registrar for registration.

(6) On registration, the Registrar shall issue a certificate as proof of registration and one certificate may include rights in more than one piece of work.



(7) A certificate of registration of a piece of work may be received in evidence as proof of ownership of that piece of work.

(8) The procedure for application and form of registration of a right in a piece of work shall be as prescribed by rules made by the Minister for the purpose.

#### **44. Users of work to apply for licence**

(1) Any person who wishes to use or perform another person's work or who causes work to be performed in public for gain shall apply to the owner or the owner's agent for a licence to do so.

(2) The owner or agent may grant a licence and shall in respect of any grant, charge such royalties as the owner or owner's agent may determine to be appropriate.

(3) A licence granted under this section shall be in force for one year but may be renewed each time it expires.

(4) Any person who, after the expiration of a licence continues to use, perform or cause to perform in public for gain any work, without renewing the licence commits an offence and is liable, in addition to any other punishment under this Act, to pay not less than fifty percent of the royalties charged in respect of that work in addition to the royalties due for that particular use.

(5) The form of application and licence under this section shall be as prescribed by the Minister.

(6) A licence by an agent shall not affect the rights of the owner of the work under section 9 but where a person is licensed by an agent the owner shall not impose extra conditions and similarly where the owner exercises his or her rights under section 9, the agent shall not impose conditions other than those agreed upon between the owner and the user of the work if the agreement is in conformity with this Act.

#### **45. Civil remedies**

(1) Any person whose rights under this Act are in imminent danger of being infringed or are being infringed may institute civil proceedings in the Commercial Court for an injunction to prevent the infringement or to prohibit the continuation of the infringement.

(2) Upon an ex-parte application by a right owner, the court may in chambers make an order for the inspection of or removal from the infringing person's premises, of the copyright infringing materials which constitute evidence of infringement by that person.

(3) The grant of an injunction under subsection (1) shall not affect the author's claim for damages in respect of loss sustained by him or her as a result of the infringement of the rights under this Act.

(4) A person who sustains any damage because of the infringement of his or her rights under this Act may claim damages against the person responsible for the infringement whether or not that person has been successfully prosecuted.

(5) Infringement is not actionable unless the infringement involves the whole piece of work or a substantial part of the work.

#### **46. Infringements of copyright**

(1) Infringement of copyright or neighbouring right occurs where, without a valid transfer, licence, assignment or other authorisation under this Act a person deals with any work or performance contrary to the permitted free use and in particular where that person does or causes or permits another person to—

- (a) reproduce, fix, duplicate, extract, imitate or import into Uganda otherwise than for his or her own private use;
- (b) distribute in Uganda by way of sale, hire, rental or like manner; or
- (c) exhibit to the public for commercial purposes by way of broadcast, public performance or otherwise.

(2) The use of a piece of work in a manner prejudicial to the honour or reputation of the author shall be deemed an infringement of the right of the owner of the right.

#### **47. Offences and penalty**

(1) A person who, without the authorisation of or licence from the rights owner or his or her agent—

- (a) publishes, distributes or reproduces the work;
- (b) performs the work in public;
- (c) broadcasts the work;
- (d) communicates the work to the public; or
- (e) imports any work and uses it in a manner which, were it work made in Uganda, would constitute an infringement of copyright;

commits an offence and is liable on conviction, to a fine not exceeding one hundred currency points or imprisonment not exceeding four years or both.

(2) A person who contravenes the rights of a producer of sound recording or audio-visual fixation, a broadcasting company or a producer of programme carrying signals commits an offence and is liable on conviction to a fine not exceeding twenty five currency points or imprisonment not exceeding one year or both.

(3) Where a work is communicated to the public on the premises of an occupier or by the operation of any apparatus which is provided by or with any consent of the occupier of those premises, the occupier shall be deemed to be the person communicating the work to the public whether or not he or she operates the apparatus.

(4) A person who sells or buys in the course of trade or imports any apparatus, article, machine or thing, knowing that it is to be used for making infringing copies of work, commits an offence and is liable on conviction, to a fine not exceeding fifty currency points or imprisonment not exceeding one year or both.

(5) In addition to the punishment prescribed by subsection (4) the Court shall, where an offence is committed under that subsection, order the forfeiture of the apparatus, article or thing which is the subject matter of the offence or which is used in connection with the commission of the offence.

(6) Any person who does any act to make other people believe that he or she is the author or performer of a piece of work, whether that act is—

- (a) by words or writing;
  - (b) through conduct or fraudulent tricks; or
  - (c) the use of electronic or other device;
- commits an offence.

(7) A person commits an offence who, having reasonable grounds to know or suspect that the act will induce, enable, facilitate or conceal an infringement of a copyright or a neighbouring right, does the following—

- (a) remove or alters any electronic moral rights information without lawful authority to do so;
- (b) distributes, imports for distribution, broadcasts, communicates or makes available to the public any pirated work;
- (c) without lawful authority, distributes, imports for distribution, broadcasts, communicates or makes available to the public, any performance, copy of a sound recording or audio-visual fixation knowing that the moral rights information has been unlawfully removed or altered.

(8) Where a work is communicated to the public on the premises of an occupier by live performance without the authority of the owner of the copyright or neighbouring right or agent, the occupier of the premises shall be deemed to have communicated the work to the public.

#### **48. Infringement of neighbouring right**

(1) A person who infringes a neighbouring right of another person under this Act commits an offence and is liable on conviction to a fine not exceeding one hundred currency points or imprisonment not exceeding four year or both.

(2) The provisions of section 45 and subsections (2) to (6) of section 47 shall apply to the owner of a neighbouring right.

#### **49. Offences by body of persons**

(1) Where an offence is committed by a body of persons—

- (a) in the case of a body corporate, every director and the secretary of the body shall be deemed to have committed the offence; and
  - (b) in the case of a partnership or other body not being a body corporate, every partner or member shall be deemed to have committed the offence.
- (2) No person shall be taken to have committed an offence under subsection (1) if he or she proves to the satisfaction of the court that the offence for which he or she is charged was committed by some person other than himself or herself and was without his or her consent or connivance and that he or she exercised all diligence to prevent the commission of the offence as he or she ought to have exercised in the circumstances.

#### **50. Penalties and compensation**

(1) A person convicted of an offence under this Act, for which no other punishment is provided, is liable to a fine not exceeding fifty currency points or imprisonment not exceeding one year or both.

(2) In addition to any other punishment that may be imposed by the court under this Act, the court may order—

- (a) that all sums of money arising out of the offence and received by the offender be accounted for by the offender and paid to the person entitled to the economic rights under this Act; and
- (b) that all reproductions, duplication, translation, extracts, imitations and all other materials involved in the infringement be forfeited and disposed of as the court may direct.

#### **51. Proof of facts**

An affidavit, affirmation or other oath made before a magistrate, commissioner for oaths or other person authorised to administer an oath or affirmation under the law of the country where the oath was made, which—

- (a) purports to have been made by or on behalf of the owner of the copyright or successor in title, and
- (b) states all or any of the following—
  - (i) that at the time of the affidavit, oath or affirmation the rights of the owner of the copyright work subsisted;
  - (ii) the nationality of the work of the copyright;
  - (iii) the place where the work was first made;
  - (iv) the date and place for first publication of the work and the date of publication in Uganda, if such publication was not the first publication;

- (v) that the person named in affidavit, oath or affirmation is the owner of the copyright or successor in title;
  - (vi) that a copy of the work exhibited to the affidavit oath or affirmation is a true copy of the work,
- shall be admissible in any proceedings under this Act.

**52. Staff of collecting society etc to act as inspector**

In addition to inspectors appointed under section 41 the Registrar may authorise any member from the Uganda Registration Service Bureau or any staff of a collecting society to perform the functions of an inspector under this Act.

**53. Entry into premises**

Subject to the provisions of this section, an inspector may, at any reasonable time and on production of the certificate of authority enter any premises, ship, aircraft or vehicle for the purpose of ascertaining whether there is or has been, on or in connection with those premises, ship, aircraft or vehicle any contravention of this Act.

**54. Mode of inspection of premises**

(1) For the purpose of ascertaining whether there is or has been a contravention of this Act, an inspector may inspect—

- (a) any substance or article appearing to be a work;
- (b) any container or package appearing to be used or intended to be used to contain any work; or
- (c) any place, plant or equipment appearing to be used or intended to be used in connection with the production, reproduction or otherwise manufacture of a work.

(2) An inspector may seize and detain any substance or article which he or she has reasonable cause to believe to be an infringing of a copyright in any work or in relation to which or by means of which there is reasonable cause to believe that an offence under this Act has been or is being committed, and any document which he or she has reasonable cause to believe to be a document which may be required in proceedings under this Act.

(3) Where an inspector seizes any work, the inspector shall notify in writing the person from whom it is seized the fact of that seizure and shall in that notification specify the item seized.

(4) Any person who—

- (a) wilfully obstructs an inspector in the discharge of the inspector's duties; or
- (b) wilfully fails to comply with any requirement properly made to that person by an inspector; or

(c) without reasonable cause fails to give to the inspector any assistance or information which the inspector may reasonably require for the purpose of the performance of the inspector's duties under this Act; or

(d) makes any statement which that person knows to be false or which that person does not believe to be true,

commits an offence and is liable on conviction to a fine not exceeding one hundred currency points, or to imprisonment not exceeding two years or both.

#### **55. Inspectors not personally liable**

An inspector shall not be personally liable in respect of any act done in good faith in the execution of any duty under this Act.

#### **56. Suspension of release by customs authorities**

(1) A rights owner, who has reasonable grounds for suspecting that the importation of pirated goods may take place, may lodge an application in writing with the commercial court for the suspension of the release into free circulation of such goods.

(2) Any rights owner initiating the procedures under subsection (1) shall be required to provide adequate evidence to satisfy the court that, there is *prima facie* infringement of the copyright and to supply a sufficiently detailed description of the goods to make them readily recognisable by the customs authorities.

### **PART VII—GENERAL PROVISIONS RELATING TO COLLECTING SOCIETIES.**

#### **57. Collecting Societies to be registered**

(1) No collecting society shall operate in Uganda without a registration certificate issued by the Registrar of Companies.

(2) The Registrar of Companies shall not register another society in respect of the same bundle of rights and category of works if there exists another society that has already been licensed and functions to the satisfaction of its members.

(3) Any person operating as a collecting society or causing any society or body to operate as a collecting society without a registration certificate commits an offence and is liable on conviction to a fine not exceeding one hundred currency points or to a term of imprisonment not exceeding two years or to both the fine and imprisonment.

#### **58. Qualifications for registration**

The Registrar may register as a collecting society any society or body which has for its main object the promotion of the economic and social interest of its members through defending their copyright and neighbouring right interests and whose function or other objects include any of the following—

- (a) in cooperation with other relevant bodies and organisations, to promote and encourage creativity in the artistic, literary and scientific fields in Uganda;
- (b) to promote and carry out public awareness on copyright and neighbouring rights;
- (c) to pay the royalties to its members who are the appropriate beneficiaries;
- (d) to make reciprocal agreements with foreign societies or other bodies of authors or neighbouring rights owners for the issue of authorisations in respect of their members' works and for the collection and distribution of copyright fees deriving from those works;
- (e) to help in the preparation of its members standard forms of contract for the benefit and use of its authors and neighbouring rights owners, and to act as an intermediary for the conclusion of contracts between its members and the users of their works;
- (f) to foster harmony and understanding between its members with the users of their works as is necessary for the protection of their economic rights;
- (g) to provide its members or other persons in need of it, with information on all matters relating to copyright and neighbouring rights and to give advice and keep its members informed about their rights and interests;
- (h) to act as agent for its members in relation to their copyright and neighbouring rights interests;
- (i) to do any act necessary in relation to the copyright and neighbouring rights and interests of its members.

#### **59. Conditions for registration**

The Registrar shall not register a society unless—

- (a) the Registrar is satisfied that the society is capable of promoting its members' interests and of discharging its functions and objectives.
- (b) it consists of at least thirty persons all of whom are, according to its articles and rules qualified to be members.
- (c) the society is incorporated under the provisions of the Companies Act.

#### **60. Application for registration**

(1) An application for registration of a collecting society shall be made to the Registrar in a prescribed form and shall be signed by at least thirty members of the society.

(2) The application shall be accompanied by three copies of the proposed articles and rules of the Society, a copy of the certificate of registration as a non-governmental organisation and such other information as the Registrar may require.

#### **61. Registration of a society on probation**

(1) If the Registrar is satisfied that a society has complied with all the requirements under this Act, and regulations made under this Act and that its proposed articles and rules are not contrary to the provisions of this Act, the Registrar shall register the society and its articles and rules on probation for a period not exceeding eighteen months.

(2) If at the expiration of the probationary period the Registrar is not satisfied with the performance of the society, the Registrar may either cancel the registration or extend the probationary period by a period not exceeding six months; and if after the extension the Registrar is still not satisfied with the performance of the society, the registration shall be cancelled.

(3) On registration of a society on probation, a trust under the names of the society shall be established and the executive body of the society shall be established as the board of trustees of the society for the period of the probation.

#### **62. Indication of probationary registration**

A society which is registered on probation shall state in legible letters in all its receipts and letter-heads, notices, advertisement or other official publications, that it is registered probationary and shall indicate the same on a signboard in a conspicuous position outside any premises or office in which it carries on its business.

#### **63. Cancellation of registration**

(1) At any time during the period of registration of a society on probation, the Registrar may, by notice in writing to the person responsible for running the society, cancel the probationary registration of the society stating reasons for the cancellation and the society shall, from the date of service of the notice, cease to be a registered society.

(2) The cancellation referred to in subsection (1) shall be published in the *Gazette* and in at least one of the prominent newspapers in Uganda.

#### **64. Full registration of society**

(1) Where at the end of the probation the registrar is satisfied with the functioning of the society the Registrar shall fully register the society as a collecting society.

(2) A society shall, on full registration, become a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold movable and immovable property of every description, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purpose of its operations.

(3) If the Registrar is satisfied that a society's original certificate of registration has been lost or destroyed, the Registrar may issue a duplicate certificate.



(4) All assets, rights and liabilities vested in the board of trustees of the society during the period of the registration on probation shall vest in the society as a body corporate.

**65. Qualification for membership of a society**

(1) In order to be qualified for membership of a registered society, a person, other than a registered society or a company incorporated under the Companies Act or an un-incorporated body of persons permitted to become a member shall be resident in Uganda.

(2) No person of a registered society shall exercise any of the rights of a member unless that person has paid the required membership fee.

(3) Each member of a registered society shall have one vote only as a member in the affairs of the registered society.

**66. Address of society**

(1) Every registered society shall have a registered address to which notices and communications may be sent, and shall notify the Registrar on every change in its registered address within one month of the change.

(2) Every registered society shall display its name and address on a signboard in a conspicuous position outside its place of business.

**67. Amendment of the articles and rules of a registered society**

(1) Any registered society may amend its articles and rules including the name of the society.

(2) No amendment under subsection (1) shall be valid until it is registered with the Registrar.

(3) If the Registrar is satisfied that an amendment is not contrary to the provisions of this Act, the Registrar shall register the amendment.

(4) An amendment which changes the name of a registered society shall not affect any right or obligation of the society or any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

(5) When an amendment of the articles or rules of a registered society is registered, the Registrar shall issue a certified copy of the amendment to the society which certified copy shall be conclusive evidence that the amendment has been duly registered.

(6) If it appears to the Registrar that an amendment of the articles or rules of a society is necessary or desirable in the interest of the society, the Registrar may call upon the society, to make the amendment within a specified period.

(7) If the society fails to make the amendment under subsection within the time specified, the Registrar may, after giving the society an opportunity of being heard, make and register the amendment, and issue to the society a certified copy of the amendment.

(8) With effect from the date of registration of an amendment under subsection (7) the articles or rules of a society shall be deemed to have been duly amended and the articles or rules as amended shall, be binding on the society and its members.

(9) Any society aggrieved by any amendment of its articles or rules made under sub-section (7) may appeal to the Minister against the amendment within two months of the date of the issue of the certified copy of the amendment.

(10) Any member of a registered society may appeal to the Minister, in writing against any refusal by the Registrar to register any amendment to the articles or rules of the society.

#### **68. Act e.t.c to be kept and list of members open for inspection**

Every registered society shall keep a copy of this Act and of the regulations made thereunder and of its articles or rules and shall have a list of its members open to inspection by any person, free of charge at all reasonable times during business hours at the office of the society.

#### *Financial Provisions relating to Societies*

#### **69. Audit, annual returns and accounts**

(1) The executive committee of a registered society shall cause the accounts of the society to be audited at least once in every year by an auditor appointed by the Annual General Meeting and approved by the Registrar.

(2) Where the registered society is unable to appoint an auditor, the Registrar may appoint the auditor for the society and the cost of the audit shall be borne by the society.

(3) Audits shall be conducted in accordance with generally accepted professional audit standards and in addition include audit of management efficiency.

(4) An auditor appointed under this section shall have access to all books, accounts, papers and securities of a registered society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the auditor may require.

(5) The auditor shall have power, where necessary—

(a) to summon, any officer, agent, servant or member of the society whom the auditor has reason to believe can give information in regard to the transactions of the society or the management of its affairs;

- (b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to the society from the officer, agent, servant or member in possession of such book, documents, cash or securities.

(6) An auditor appointed under this section shall submit a detailed audit report of the accounts and balance sheet to the executive committee of the society and a true copy of accounts and balance sheet to the Registrar within three months after the end of the society's financial year, which report shall include the auditor's opinion on whether or not the administration of the society has been conducted—

- (a) efficiently and in accordance with the standard accounting methods;

- (b) in accordance with the society's objectives, articles and rules or any other decisions made by the Annual General Meeting.

(7) Where the executive committee fails to cause the auditing of accounts in accordance with this section, the executive committee of that society shall be deemed to have relinquished the office; and the Registrar shall convene a special general meeting to elect a new committee unless the Registrar is satisfied that the failure was due to circumstances beyond the committee's control.

## **70. Estimates and expenditure**

(1) Every executive committee of a registered society shall cause estimates of the income and expenditure of the society to be prepared for the coming twelve months at least three months before the end of its financial year and a copy of the estimates shall be sent to the Registrar for an opinion before they are submitted to the general meeting.

(2) Supplementary estimates may be prepared by a society during the financial year and submitted to the registrar for an opinion before they are submitted to the Annual General Meeting.

(3) If a society contravenes or fails to comply with any provision of this section, the society and any officer or person who purports to act on its behalf commits an offence and is liable to a fine not exceeding fifty currency points and in the case of a continuing offence to a further fine not exceeding two currency points for each day on which the offence is continued.

## **71. Voluntary amalgamation of societies**

(1) Any two or more registered societies may, with the prior approval of the Registrar, amalgamate into a single society.

(2) An amalgamation referred to in subsection (1) shall not take place unless—

- (a) a general meeting of each of the societies has been called;

- (b) each member of the society has had a clear notice of fifteen days of the meeting; and

- (c) a preliminary resolution has been passed by a two-thirds majority of the members present at the meeting for the amalgamation.

(3) An amalgamation of registered societies into one society under this section may be effected without dissolution of the societies concerned or a division of the assets and liabilities of the amalgamated societies and a resolution of the society passed for the amalgamation shall be sufficient for the transfer of the assets and liabilities of the amalgamated societies to the new society.

## **72. Investment of funds**

A registered society may invest or deposit its funds—

- (a) in any bank or financial commercial institution incorporated in Uganda;
- (b) in such investments and securities as are by law allowed for the investment of trust funds;
- (c) in such other way as is specified in its articles or rules and approved by the Registrar.

## **73. Provident and benevolent fund**

(1) A registered society shall establish and administer a Provident and Benevolent Fund which shall be separate from the funds of the society for the benefit of the copyright and other rights owners.

(2) The society shall credit all moneys collected on behalf of the authors and other copyright and neighbouring rights owners to the Fund and shall pay all sums due to the rights owners from that Fund.

*Supervision of societies*

## **74. Inspection**

Any employee, officer or member of a collecting society shall, when required to do so by the Registrar or an inspector, produce for inspection any books, records or document in his or her control relating to the operations of the society.

## **75. Ad hoc committee of inquiry**

(1) The Registrar may hold an inquiry or direct an inspector or other person in writing to hold an inquiry into the constitution, working and financial conditions of a registered society.

(2) On receipt of a resolution demanding an inquiry passed by not less than two-thirds of the members present at a general meeting which has been duly advertised, the registrar shall cause an inquiry to be held.

(3) During the period of inquiry under this section, the executive Officer, other officers or employees may be suspended from duty by the Registrar to facilitate the smooth holding of the inquiry.

(4) Where the executive Officer has been suspended under subsection (3) a caretaker manager shall be appointed by the Registrar in consultation with the executive committee.

(5) The caretaker shall remain in office until either the former Executive Officer is reinstated or a new one is appointed such that the caretaker shall not stay in office for more than three months after the report of the inquiry has been submitted.

(6) Where after the report of the inquiry, it is necessary to elect a new executive committee, the Registrar shall convene a special general meeting within thirty days after the submission of the report to elect a new committee.

#### **76. Cancellation of registration after inquiry or inspection**

(1) If the Registrar, after an inquiry or after making an inspection or on receipt of an application made by two-thirds of the members of a registered society, is of the opinion that the society ought to be dissolved, the Registrar may make an order for the cancellation of registration of the society.

(2) Any member of a registered society may, within two months from the date of an order made under subsection (1), appeal from such order to the Minister.

(3) Where no appeal is presented within two months of an order made under subsection (1) the cancellation shall take effect and where an appeal is presented the order shall not take effect until the appeal is concluded.

(4) The Minister shall make a decision on an appeal under subsection (2) within two months of receiving the appeal.

#### **77. Cancellation of registration of a collecting society**

(1) The Registrar may, by order in writing, cancel the registration of any society, if satisfied that—

- (a) the registration was obtained by fraud or mistake;
- (b) the society has exhibited operations for an illegal purpose;
- (c) the society is no longer operating in accordance with this Act;
- (d) the number of members of the society has fallen below the minimum required by this Act; or
- (e) the society has not commenced operations or has ceased to operate for two consecutive years.

(2) Where the registration of a society is cancelled, the society shall cease to exist as a body corporate as from the date the cancellation takes effect.

(3) On the making of an order to cancel the registration of a society, a copy of the order shall be placed on the file maintained by the registrar in respect of the society and gazetted and published in at least one of the leading newspapers in Uganda.

#### **78. Appointment of liquidator**

(1) Where the registration of a society is cancelled the Registrar may appoint one or more persons to be a liquidator or liquidators of the society and all the property of the society shall vest in such liquidator or liquidators with effect from the date of cancellation of the registration.

(2) A liquidator appointed under this section shall, subject to the guidance, control and any limitation imposed by the Registrar have the following powers—

- (a) to appoint a day, before which the creditors whose claims are not already recorded in the books of the society shall state their claims for admission, or be excluded from any distribution made before they have proved them;
- (b) to institute and defend suits and other legal proceedings by and on behalf of the society and appear in court as litigant in person on behalf of the society;
- (c) to refer disputes to arbitration;
- (d) to determine from time to time the contributions to be made by the members and past members, and by the estate of deceased members of the society, respectively, to the assets of the society;
- (e) to investigate all claims against the society and, decide questions of priority arising between claimants;
- (f) to call meetings of members as may be necessary for the proper conduct of the liquidation;
- (g) to sell the assets of the society;
- (h) to determine from time to time, by what persons and in what proportion the costs of the liquidation are to be borne;
- (i) to take possession of the books, documents and assets of the society;
- (j) to arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Registrar;

- (k) to give such directions in regard to the disposal of the books and documents of the society in accordance with affairs of the society;
- (l) to compromise, with the approval of the Registrar, any claim by or against the society; and
- (m) to apply to the Registrar for discharge from the duties of liquidator after completion of the liquidation proceedings.

(3) Upon the appointment of a liquidator for a registered society, the provisions of the Companies Act relating to winding up of a company shall apply subject to modifications that may be required in the circumstances.

#### PART VIII—GENERAL PROVISIONS

##### **79. Settlement of disputes**

- (1) Any dispute regarding the operations of a registered society which arises—
- (a) among the members or past members;
  - (b) between a member, past member or other person not being a member, or deceased member, and the society, its committee or any officer or past officer of the society; or
  - (c) between the society or its committee and any officer or past officer of the society; or
  - (d) between the society and any other registered society;
- shall be referred to an arbitrator or arbitrators under the Arbitration and Conciliation Act.

##### **80. Remuneration of officers**

(1) No officer or member of a registered society shall receive any remuneration, salary, commission or other payment from the society for services rendered to the society unless the society has, after consultation with the Registrar, by resolution passed at a general meeting of the society approved the expenditure in the estimates of the society for the financial year.

(2) No officer or member of a registered society shall receive any remuneration, salary, commission or other payment from any person other than the society in respect of any business or transaction entered into by the society, but in special circumstances the society may, after consultation with the Registrar, by a resolution passed at a general meeting of the society, consent to such remuneration, salary, commission or other payment being made.

(3) Any officer or member of a registered society who pays out or receives any remuneration, salary, commission or other payment in contravention of subsection (1) or (2), as the case may be, commits an offence and is liable on conviction to a fine not exceeding twenty currency points or to a period of imprisonment not exceeding two years or both.

### **81. Reciprocal protection**

A copyright or neighbouring rights owner who is not a citizen or resident of Uganda shall be protected under this Act if the work was first published in a country which is—

- (a) a member of any of the organisations specified in Part I of the Second Schedule to this Act; or
- (b) a signatory to any of the international conventions specified in Part II of the Second Schedule to this Act.

### **82. Regulations**

(1) The Minister may, on the recommendation of the Registrar, and after consultation with the collecting societies, make regulations generally for the better carrying into effect of the provisions of this Act and to prescribe or provide for anything required or authorised to be prescribed or provided under this Act.

(2) In particular and without prejudice to the generality of subsection (1) regulations may—

- (a) prescribe the forms to be used to apply for registration;
- (b) prescribe the procedure for a society to apply for registration;
- (c) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;
- (d) provide for audit of the accounts and books to be kept by a society and the charges if any to be made for such audit;
- (e) provide for the form of the final accounts and the balance sheet to be prepared annually and any other statements and schedules relating to them;
- (f) prescribe the procedure to be followed in appeals to the Ministers;
- (g) provide for the returns to be submitted to the Registrar by registered societies;
- (h) prescribe the fees to be paid on application for registration and for other services provided by the Registrar and;
- (i) prescribe anything that may be necessary for the better functioning of the societies.

(3) Regulations made under this section may prescribe as penalties for the contravention of the regulations any fine not exceeding twenty currency points or any term of imprisonment not exceeding six months or both.

### **83. Amendment of Schedules**

(1) The Minister may, in consultation with the Minister responsible for finance, by statutory instrument amend the First Schedule to this Act.



(2) The Minister may, by statutory instrument, amend the Second Schedule to this Act as circumstances may require.

#### PART IX—TRANSITION PROVISIONS

##### **84. Repeal and Saving**

(1) The Copyright Act, is repealed.

(2) The repeal under subsection (1) shall not affect any copyright or other rights that existed immediately before the repeal of the Act and all such rights shall be enforceable under this Act, as if this Act was in force at the time of the creation of that work.

##### **85. Existing societies**

(1) A collecting society operating before the commencement of this Act shall—

- (a) where it is operating as a fully registered non-governmental organisation, apply for full registration of the society within twelve months from the date of commencement;
- (b) where it is operating as an unregistered society, apply for full registration within twelve months from the date of commencement if it fulfills the qualifications provided under section 58.

(2) The Registrar shall, after the period of twelve months referred to under subsection (1) publish, by legal notice in the *Gazette*, and in at least one leading newspaper, the registered collecting societies at the time.

#### FIRST SCHEDULE

#### CURRENCY POINT

Section 2

One Currency point is equivalent to twenty thousand shillings

SECOND SCHEDULE

Sections 3 and 81

PART I—ORGANISATIONS

1. World Intellectual Property Organisation (WIPO)
2. Africa Region Intellectual Property Organisation (ARIPO)
3. The United Nations Educational Scientific and Cultural Organisation (UNESCO)
4. The World Trade Organisation.

PART II—INTERNATIONAL CONVENTIONS

1. The Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS Agreement).

**Cross references**

Arbitration and Conciliation Act, Cap. 4

Uganda Communications Act, Cap. 106

Companies Act, Cap. 110

Copyright Act, Cap. 215