

# Copyright (Amendment) Decree

No 98 of 1992

Laws of the Federation of Nigeria

28th day of December 1992

The Federal Military Government hereby decrees as follows:-

1.

The Copyright Act (in this Decree referred to as "the principal Act) is hereby amended as set out in this Decree.

2.

Section 5 of the principal Act is amended by inserting immediately after the existing subsection (3) thereof a new subsection (4) as follows, that is

(4) The provisions of the Third Schedule to this Act shall apply to musical works".

3.

Section 6 of the principal Act is amended by deleting the existing subsection (3) thereof.

4.

Section 7 of the principal Act is amended by substituting for the existing subsection (3) thereof a new subsection (3) as follows, that is -

(3) The exceptions specified in paragraphs (a), (h), (k), (n) and (o) of the Second Schedule to this Act shall apply to the copyright in a broadcast, in like manner as they apply to copyright in literary, musical or artistic work or a cinematographic film".

5.

Section 11 of the principal Act is amended in subsection (1) by substituting for the words "The owner of the copyright has the right" the words. "The author of a work in which copyright subsists"

6.

Section 12 of the principal Act is amended in subsection (3) thereof by substituting for the figure "30" a new figure "31.

7.

Section 14 of the principal Act is amended in subsection (1) thereof by substituting for the existing paragraph (b) a new paragraph (b) as follows, that is -

(b) imports or causes to be imported into Nigeria any copy of a work which if it had been made in Nigeria would be an infringing copy under this section of this Act".

8.

Section 17 of the principal Act is amended by substituting for the words "section 9" wherever it occurs the words "section 9 and 11".

9.

Section 18 of the principal Act is amended -

(a) in subsection (1)-

(i) by substituting for the existing paragraph (b) thereof a new paragraph (b) as follows -

(b) imports or causes to be imported into Nigeria a copy of any work which if it had been made in Nigeria would be an infringing copy, and

(ii) by deleting the word "not" appearing in the second line after paragraph (c) thereof;

(b) in subsection (2)

(i) in paragraph (a) by deleting the comma after the word "sale", and

(ii) immediately after the existing paragraph (c) thereof insert a new paragraph (d) as follows, that is -

(d) has in his possession, sells, lets for hire or distribution for the purposes of trade or business or exposes or offers for sale or hire any copy of a work which if it had been made in Nigeria would be an infringing copy'';

(c) in subsection (3) by substituting for the words "6(i) (b)" the words "6(ii) (b)".

10.

Immediately after the existing section 30 of the principal Act there shall be inserted a new section 30A as follows, that is -

30A. (1) The Council shall have the power to grant compulsory licenses in accordance with the provisions of the Fourth Schedule to this Act.

(2) In exercise of its power under subsection (1) of this section, the Council

shall in any case in which an application is made to it constitute a Copyright Licensing Panel (in this section referred to as "the Panel").

(3) The Panel shall consist of five persons at least three of whom shall be members of the Governing Board of the Council and one of whom shall be designated as the Chairman.

(4) A person shall not be appointed as a member of the Panel if he has any interest in any matter which is required to be determined by the Panel.

(5) The Council may make regulations providing for the procedure of the Panel under the Fourth Schedule to this Act and providing generally for the execution of the functions of the Panel.

(6) Any person aggrieved by a decision of the Panel shall have a right of appeal to the Federal High Court".

#### 11.

Section 32 of the principal Act is hereby amended by inserting immediately after the existing subsection (3) thereof a new subsection (4) as follows, that is -

(4) It is hereby declared that service in the Council shall be approved service for the purposes of the Pensions Act, and Council shall be entitled to pensions, gratuities and other retirement benefits as are prescribed thereunder, so however that nothing in this section shall prevent the appointment of a person to any office on terms which preclude the grant of a pension and gratuity or any other retirement benefit in respect of that office.

For the purposes of the application of the provisions of the Pensions Act, any powers exercisable thereunder by a Minister or other Authority (not being a power to make regulations under section 23 thereof) are hereby vested in and exercisable by the Council".

#### 12.

Immediately after the existing section 32 of the principal Act there shall be inserted the following new sections, that is -

32A. (1) The Council may appoint copyright inspectors as it may deem fit by notice published in the Gazette.

(2) A copyright inspector shall for the purposes of this Decree have the power -

(a) to enter, inspect and examine at any reasonable time any building or premises which he reasonably suspects is being used for any activity which is an infringement of copyright under this Act;

(b) to arrest any person who he reasonably believes to have committed an offence under this Act;

(c) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with;

(d) to require the production of the register required to be kept under section 13 of this Act and to inspect, examine or copy it;

(e) to require any person who, he finds in such building or premises to give such information as it is in his power to give in relation to any purpose specified in this Act;

(f) to carry out such examination, test or analysis within or outside the premises as is required to give effect to any provision of this Act and to take instant photographs where such examination, test, analysis or photograph is carried out within the premises and such examination, test, analysis or photograph shall be required to be endorsed by the occupier of the premises or his agent but a refusal by an occupier to endorse any document containing the result of an examination, test, analysis or photograph shall not invalidate the result or finding of the examination, test, analysis or photograph; and

(g) to exercise such other powers as the Council may delegate to it to give effect to the provisions of this Act.

(3) A copyright inspector may prosecute, conduct or defend before a court any charge, information, complaint or other proceedings arising under this Act.

(4) Any person who obstructs a copyright inspector in the performances of his duties shall be guilty of an offence and liable on conviction to a fine not exceeding N500 or to imprisonment for a term not exceeding 3 months or to both such fine and imprisonment.

32B. (1) A collecting society (in this section referred to as "a society") may be formed in respect of any one or more rights of copyright owners for the benefit of such owners, and the Society may apply to the Council for approval to operate as a collecting society for the purpose of this Act.

(2) The Council may approve a Society if it is satisfied that -

(a) it is incorporated as a company limited by guarantee;

(b) its objects are to carry out the general duty of negotiating and granting copyright licenses and collecting royalties on behalf of copyright owners and distributing same to them;

(c) it represents a substantial number of owners of copyright in any category of works protected by this Act; in this paragraph of this subsection, "owners of copyright" includes owners of performers rights;

(d) it complies with the terms and conditions prescribed by regulations made by the Council under this section.

(3) The Council shall not approve another Society in respect of any class of copyright owners if adequately protects the interests of that class of copyright owners.

(4) It shall be unlawful for any group of persons to purport to perform the duties of a Society without the approval of the Council as required under this section.

(5) Any person who contravenes the provisions of subsection (4) of this section, shall be guilty of an offence and liable on conviction to a fine of N1,000 on the first conviction and for any other subsequent conviction to a fine of N2,000 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

(6) Where the contravention is by a body corporate, it shall be guilty of an offence and liable on conviction to a fine of N10,000 on the first conviction and N2,000 for each day on which the offence continues.

(7) The Council shall have power to make regulations specifying the conditions necessary to give effect to the purposes of this section of this Decree.

(8) For the purposes of this section -

"collecting society" means an association of copyright owners which has as its principal objectives the negotiating and granting of licenses, collecting and distributing of royalties in respect of copyright works;

"group of persons" includes a body corporate".

(9) The Council may, where it finds it expedient, assist in establishing a collecting society for any class of copyright owners.



32C. (1) There shall be paid a levy on any material used or capable of being used to infringe copyright in a work.

(2) The levy payable under subsection (1) of this section shall be as may be determined by the Minister from time to time by order published in the Gazette and different levies may be imposed on different categories of materials.

(3) The levy shall be paid into the Fund of the Council and the Council shall have power to disburse the funds amongst approved societies in accordance with the regulations made by the Council.

(4) The Minister shall have power to exempt any class of materials from the payment of any levy.

(5) In this section, "material" includes any object, equipment, machine, contrivances or any other device used or capable of being used to infringe copyright in a work".

#### 13.

Section 39 of the principal Act is amended as follows, that is -

(a) by deleting the words "or sound recording" wherever it occurs in the interpretation of the word "author";

(b) by inserting in alphabetical sequence the following interpretation -

"author" in the case of sound recording, means the person by whom the arrangements for the making of the recording were made, except that in the "author" means the artist in whose name the recording was made, unless in either case the parties to the making of the sound recording, provide otherwise by contract";

(c) by substituting for the interpretation of the word "musical work" the following new interpretation -

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

(d) by substituting for the word "reflection" appearing in the interpretation of the word "cable programme" the word "reception"

#### 14.

The Third Schedule to the principal Act is amended as follows, that is

(a) by substituting for "section 6(3) "appearing therein "section 5(4) "

thereof;

(b) by substituting for the existing title a new title as follows

Special Exceptions in Respect of a Sound Recording of a Musical Work

(c) in paragraph (1)

(i) line 1, substitute the words "musical work" for the words "sound recording",

(ii) line 2, substitute the word "recording" for the word "record",

(iii) sub-paragraph (b) substitute the word "recording" for the word "record" where it first occurs;

(d) in paragraph 3 –

(i) substitute the word "Council" for the word "Minister" wherever it occurs,

(ii) substitute the word "it" for the word "he" wherever it occurs,

(iii) substitute for the existing Proviso a new Proviso as follows–

"Provided that where no order comprising a class of records, either a general order or an order relating specifically to that class, or to that class together with one or more other classes of records) has been made under this paragraph, no further order comprising that class of records shall be made thereunder less than five years after the date on which the previous order comprising that class (or, if more than one, the last previous order comprising that class)":

(e) in paragraph 10 substitute the word "Council" for the word "Minister" wherever it occurs.

#### 15.

The Fourth Schedule to the principal Act is amended in paragraph 2 as follows, that is–

(a) in line 2 of sub-paragraph (2) thereof by substituting for the word "of" the word "or" where it first occurs;

(b) in line 1 of sub-paragraph (4) by substituting for the word "Council" the word "Court".

This Decree may be cited as the Copyright (Amendment) Decree 1992.

Made at Abuja this 28<sup>th</sup> day of December 1992

General I. B. Babangida,  
President, Commander-in-Chief of the Armed Forces  
Federal Republic of Nigeria



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