
**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

GHANA

The present document reproduces the text¹ of the Copyright Law, 1985, as notified by Ghana under Article 63.2 of the Agreement (see document IP/N/1/GHA/1).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

GHANA

Le présent document contient le texte¹ de la Loi de 1985 sur le droit d'auteur, notifiée par le Ghana au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/GHA/1).

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

GHANA

En el presente documento se reproduce el texto¹ de la Ley de Derecho de Autor de 1985, notificado por Ghana de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/GHA/1).

¹ In English only./En anglais seulement./En inglés solamente.

COPYRIGHT LAW, 1985

ARRANGEMENT OF SECTIONS

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COPYRIGHT LAW, 1985

In pursuance of the Provisional National Defence Council (Establishment) Proclamation, 1981, this Law is hereby made:

1. The author of any work specified in section 2 of this Law shall be entitled to copyright and such protection as are provided in relation to such work under this Law.

Authors of specified works entitled to copyright protection.

2. (1) Subject to the provisions of this section the following works are eligible for copyright—

Works eligible for copyright.

- (a) literary works,
- (b) artistic works,
- (c) musical works,
- (d) sound recordings,
- (e) broadcasts,
- (f) cinematographic works,
- (g) choreographic works,
- (h) derivative works,
- (i) programme-carrying signals.

(2) A work is not eligible for copyright unless—

- (a) it is original in character;
- (b) it has been written down, recorded or otherwise reduced to material form; and
- (c) it is—
 - (i) created by a citizen of Ghana or a person who is ordinarily resident in Ghana;
 - (ii) first published in Ghana; and in the case of a work first published outside Ghana is subsequently published in Ghana within thirty days of its publication outside Ghana; or
 - (iii) a work in respect of which Ghana has an obligation under an international treaty to grant protection.

(3) The eligibility of a work for copyright is not affected by its artistic quality, the purpose of the author in creating it or by the manner or form of its expression.

(4) For the purposes of this section a work is original if it is the product of the independent efforts of the author.

3. Copyright under this Law does not extend to ideas, concepts, procedures, methods or other things of a similar nature.

Ideas, concepts, etc. not protected by copyright.

Copyright in works of the Ghana Government and international bodies.

4. Where a work specified in section 2 of this Law is made by or under the direction or control of the Government of Ghana or a prescribed international body copyright in that work shall vest in the Government or that body.

Works of
Ghanaian
folklore
protected.

5. (1) Works of Ghanaian folklore are hereby protected by copyright.

(2) The rights of authors under this Law in such folklore are hereby vested in the Republic of Ghana as if the Republic were the original creator of the works.

(3) Where a person intends to use any such folklore other than for a use permitted under section 18 of this Law, he shall apply to the Secretary so to do, and shall pay such fee as may be prescribed in relation thereto.

(4) Any sums of money accruing from the use of folklore under this section shall be paid into a fund established by the Secretary and shall be used for the promotion of institutions for the benefit of authors, performers and translators.

Rights of
authors.

6. (1) The author of any work which is protected by copyright shall have the exclusive right in respect of such work to do or authorise the doing of any of the following acts—

- (a) the reproduction of the work;
- (b) the translation, adaptation, arrangement or any other transformation of the work; or
- (c) the communication of the work to the public by performance, broadcasting or any other means.

(2) In addition to the rights referred to in subsection (1) of this section, the author of any work which is protected by copyright shall have the sole right—

- (a) to claim authorship of his work and in particular, to demand that his name or pseudonym be mentioned when any of the acts referred to in subsection (1) of this section is done in relation to such work;
- (b) to object to, and to seek relief in connection with any distortion, mutilation or other modification of the work where such act would be or is prejudicial to his honour or reputation or where the work is discredited thereby,
- (c) to alter the work at any time.

7. Where a person creates a work—

Employed
authors.

- (a) in the course of his employment by another person;
- (b) under a contract for services; or
- (c) on commission by another person,

then in the absence of any enactment or contract to the contrary the copyright in respect of that work shall vest in the employer or the person who commissions the work.

8. (1) The rights referred to in section 6 of this Law shall not vest in any person in respect of the following works—

Public benefit
works.

- (a) an enactment;
- (b) a decision made by a Court or tribunal established under any enactment for the administration of justice in Ghana;

- (c) a report made by a commission of enquiry appointed by the Government or any agency of the Government and published by the Government;
- (d) news, namely a report of fresh events or current information made by the media, whether published in written form, by broadcast, or communicated to the public by any other means.

(2) The Republic of Ghana is the trustee for the public of the works specified in subsection (1) of this section.

9. Copyright in programme-carrying signals shall be the exclusive right to prevent the distribution in Ghana or from Ghana of any signals by any distributor for whom those signals were not intended by their author; but it shall not be an infringement of the right of the author where the use of the work involves—

Programme
carrying
signals.

- (a) the reproduction in any material form, the communication to the public and the broadcasting of the whole work or a substantial part thereof, either in its original form or in any form recognisably derived from the original by way of fair dealing for the purposes of scientific research, private use, criticism or review or the reporting of current events;
- (b) the broadcasting of the work if the broadcast is intended to be used for purposes of systematic instructional activities;
- (c) the reproduction of a broadcast and the use of such reproduction in any educational institution or for the systematic instructional activities of any such educational institution; or
- (d) its use for the purpose of a judicial proceeding or of any report of such proceeding.

Duration of
copyright in
case of
individuals.

10. (1) Unless otherwise provided in this Law, the rights of the author referred to in subsection (1) of section 6 of this Law are protected during the life of the author and 50 years after his death.

(2) Where a work is of joint authorship, the rights of the author referred to in subsection (1) of section 6 of this Law are protected during the life of the last surviving author and 50 years after his death.

Duration of
copyright in
case of
bodies
corporate.

11. Where the copyright in a work is owned by a public corporation or other body corporate the term of protection shall be 50 years commencing from the date on which the work was made public.

Duration of
copyright in
the case of
anonymous
works.

12. Where a work is published anonymously or under a pseudonym the rights of the author referred to in subsection (1) of section 6 of this Law are protected until the expiration of 50 years commencing from the date on which the work was first published, but where before the expiration of that period the identity of the author is known or is no longer in doubt such rights are protected during the life of the author and 50 years after his death.

Duration of
copyright in
cinematogra-
phic works,
etc.

13. In the case of a cinematographic work, sound recording or broadcast the rights of the author referred to in subsection (1) of section 6 of this Law are protected until the expiration of 50 years commencing from the date of making of the work, or where the work is made available to the public during such period with the consent of the author until the expiration of 50 years commencing from the date of its communication to the public.

Duration of
copyright in
case of pro-
gramme-
carrying
signals.

14. In the case of programme-carrying signals the rights of the author referred to in section 9 of this Law are protected until the expiration of 50 years commencing from the date of the making of the recording.

Duration of
copyright in
photographic
work.

15. In the case of a photographic work the rights of the author referred to in subsection (1) of section 6 of this Law are protected until the expiration of 50 years from the date of the making of the work.

Duration of
copyright in
case of
folklore.

16. The rights vested in the Republic of Ghana in respect of folklore under section 5 of this Law exist in perpetuity.

Enforcement
of author's
rights under
section 6 (2).

17. The rights vested in the author of a work under subsection (2) of section 6 of this Law exist in perpetuity and are enforceable by the author or his successors in title whether or not the rights vested in the author under subsection (1) of section 6 of this Law are still vested in the author or his successors in title.

18. (1) The use of a literary, artistic or scientific work either in the original language or in translation shall not be an infringement of the right of the author in that work and shall not require the consent of the owner of the copyright where such use involves—

Permitted
uses of
works
protected
by copyright.

- (a) the reproduction, translation, adaptation, arrangement or other transformation of the work for the user's use only, if the work has been made public;
- (b) subject to subsection (2) of this section, the inclusion with an indication of the source and the name of the author of quotations from such work in another work, including quotations from articles in newspapers or periodicals in the form of press summaries, if the work from which the quotations are taken has been made public;
- (c) subject to sub-section (3) of this section, the utilization of the work by way of illustration in publications, broadcasts or sound or visual recordings for teaching, to the extent justified by the purpose, or the communication for teaching purposes of the work broadcast for use in educational institutions, or for professional training or public education, if the work has been made public;
- (d) in the case of—
 - (i) an article published in one or more newspapers or periodicals on current economic, political or religious topics; or

- (ii) a broadcast on current economic, political or religious topics;
the reproduction of the article or broadcast in the press or the communication of the article or broadcast to the public, if the source of the article or broadcast when so used is clearly indicated, unless the article or broadcast, when first published or made, is accompanied by an express condition prohibiting its use without consent;
 - (e) the reproduction or making available to the public by means of photographic works, audio-visual works or other means of communication of any work that can be seen or heard in the course of the reporting of fresh events or new information, if—
 - (i) the work is reproduced or made available for the purpose of reporting by a news medium of fresh events or of new information; and
 - (ii) the use of the work does not extend beyond that justified by the purpose of keeping the public informed of current events;
 - (f) the reproduction of works of art or architecture in an audio-visual work for cinema or television or in a broadcast by television and the communication to the public of any of those works of art or architecture so produced, if those works are—
 - (i) permanently located in a place where they can be viewed by the public; or
 - (ii) included in an audio-visual work for cinema or television by way only of background or as incidental to essential matters represented;
 - (g) subject to subsection (4) of this section, the reproduction in the media or the communication to the public of—
 - (i) any political speech delivered in public;
 - (ii) any speech delivered in public during legal proceedings; or
 - (iii) any lecture, address, sermon or other work of a similar nature delivered in public,where the use by reproduction or communication to the public is exclusively for the purpose of reporting fresh events or new information;
 - (h) subject to subsection (5) of this section, the reproduction by recordings, photography or similar process by a public library, a non-commercial documentation centre, a scientific institution or an educational institution, of a literary, artistic or scientific work that has been lawfully made public before the reproduction is made.
- (2) Paragraph (b) of subsection (1) of this section does not apply in respect of any particular quotations unless the quotations referred to in that paragraph are compatible with fair practice and the extent of the quotations does not exceed what is justified for the purpose of the work in which the quotations are used.

(3) Paragraph (c) of subsection (1) of this section does not apply in respect of any particular work unless the use referred to in that paragraph is compatible with fair practice and the source of the work used and the name of the author are indicated in the relevant publication, broadcast or recording.

(4) Paragraph (g) of subsection (1) of this section does not apply unless the reproduction referred to in that paragraph and the number of copies made in the reproduction are limited to what is required in the particular circumstances.

(5) Paragraph (h) of subsection (1) of this section does not apply in respect of any particular establishment referred to in that paragraph unless the reproduction and the copies made—

- (a) are limited to the needs of the activities of that establishment;
- (b) do not conflict with the normal exploitation of the work reproduced; and
- (c) do not unreasonably affect the rights of the author in the work.

(6) The accidental or incidental inclusion of a work in the reporting by a news broadcast of fresh events or of new information shall not be an infringement of the rights of the author in the work.

(7) The publication of the portrait of a person shall not be an infringement of the rights of the author or other person having an interest in the portrait where the publication is related to scientific, educational or cultural purposes in general or to facts or events of public interest or events that have occurred in public.

19. (1) The owner of copyright or neighbouring rights may transfer the rights to a third party either in whole or in part, but the transfer whether in whole or in part shall not include the rights referred to in subsection (2) of section 6 of this Law. Transfer of copyright, etc.

(2) The transfer in whole or in part of any of the rights referred to in sub-section (1) of section 6 of this Law shall not imply the transfer of any right referred to in subsection (2) of that section.

(3) A contract which requires the total transfer of the rights referred to in subsection (1) of section 6 of this Law shall be limited in scope to the use provided for in that contract.

(4) Copyright may be transferred by assignment, testamentary disposition or operation of law.

(5) An assignment of copyright shall be in writing and signed by the owner of the copyright or by the person authorised by him for the purpose.

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

(7) In the case of joint authorship of a work an assignment or a licence in respect of such work shall be subject to the authorisation of the joint authors.

(8) Where a work is of joint authorship and one of the joint authors withholds his consent to an assignment or the granting of a licence, the matter shall be referred to the Secretary to determine whether or not consent should be granted in respect of the assignment or licence and upon what conditions.

(9) An assignment, a licence or testamentary disposition may be made or granted in respect of a future or an existing work in respect of which no copyright subsists.

Ephemeral recordings.

20. (1) Where a work is broadcast by a broadcaster, he may by means of his own facilities make for the purpose of his broadcast a recording of the broadcast and produce copies of the recording for his own use.

(2) Subject to subsection (3) of this section, where a recording is authorised under subsection (1) of this section all copies made of it shall be destroyed by the broadcaster within six months commencing from the date on which the recording is made.

(3) Where a recording authorised under subsection (1) of this section is of exceptional documentary character a copy of the recording may be preserved for presentation to the national archives of Ghana.

(4) The preservation for presentation to the national archives of Ghana of a copy of the recording of the broadcast of a work under subsection (3) of this section does not otherwise affect the rights of the author in the work that was broadcast.

(5) Whether a recording of a broadcast is of an exceptional documentary character is a question of fact to be determined having regard to all the circumstances, in particular to the need for the enhancement of the historical and cultural aspects of life in Ghana.

Compulsory translation licence.

21. (1) Where a work is expressed exclusively in words the right to make and publish a translation thereof shall be subject to compulsory licensing under the conditions specified in this section.

(2) A person who is a citizen of Ghana or is ordinarily resident in Ghana may, subject to the provisions of this section, apply to the Secretary for a licence to make or for the purpose of making a translation of a writing which is expressed exclusively in words into English or any Ghanaian language, and to publish or authorise the publication of the translation in copies.

(3) No application for a licence under this section may be filed until the expiration, as the case may be, of a period of—

- (a) three years commencing from the date of the first publication of the work in copies if the licence is for translation into the English language;
- (b) one year commencing from the date of the first publication of the work in copies if the licence is for translation into any Ghanaian language.

(4) No licence shall be granted under this section unless the Secretary is satisfied that—

- (a) no translation of the work into the language in question has ever been published in copies 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) following the expiration of the relevant period specified in subsection (3) of this section, the applicant either has requested the owner of the right of translation for his consent to translate the work but has been refused, or in spite of genuine efforts made by the applicant he has been unable to locate the owner;

- (c) the applicant, at the time of making such request, sent a notice of his request to the International Copyright Information Centre at the United Nations Educational, Scientific and Cultural Organization (UNESCO), or to a national or regional copyright information centre officially designated to that Organisation by the government of the country where the publisher is believed to have his principal place of business;
- (d) where the applicant cannot locate the owner of the right of translation, he has by registered mail sent copies of his application to the publisher whose name appears on the work and also to the national or regional copyright information centre specified in paragraph (c) of this subsection, or in the absence of any such designated centre sent the second copy of his application to the International Copyright Information Centre of the United Nations Educational, Scientific and Cultural Organization.

(5) For the purposes of paragraph (c) of subsection (4) of this section the Copyright Administrator shall keep up-to-date records of such centres for easy reference or contact by interested persons.

(6) No licence shall be granted under this section until the expiration of a further period of—

- (a) six months in the case of an application filed under paragraph (a) of subsection (3) of this section; or
- (b) nine months in the case of an application filed under paragraph (b) of subsection (3) of this section.

(7) If during either of the periods specified in subsection (6) of this section a translation of the work into the language in question is published in copies by or under the authority of the owner of the right of translation then no licence shall be granted for translation of the work.

(8) Where a work is composed mainly of illustrations, a licence to translate the text and to reproduce the illustrations shall be granted only if the conditions prescribed under section 24 are also fulfilled.

(9) Where the author of work has withdrawn all copies of the work from circulation no licence shall be granted in respect of the work under this section.

Scope and
conditions of
compulsory
translation
licence.

22. (1) A licence granted under section 21 of this Law shall—

- (a) be limited to the non-exclusive right to translate the work into the language in respect of which it is granted, and to publish copies of the translation in Ghana;
- (b) be only for the purposes of teaching, scholarship or research;
- (c) not be transferable by the licensee;
- (d) not extend to the export of copies of the work in respect of which it is granted;

- (e) provide for just compensation, consistent with standards of royalties normally payable in the case of licences freely negotiated between persons in Ghana and the owners of the right of translation in any other country.

(2) Where a licence is granted under section 21 of this Law the licensee shall ensure that the work in respect of which the licence is granted is correctly translated and that all 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 stating that copies of the translated version of the work are available for distribution in Ghana only; and
- (c) a reprint of the copyright notice, namely the symbol © accompanied by the name of the owner of the copyright and the year of first publication, where the work of which the translation is made is published with a copyright notice.

(3) A licence granted under section 21 of this Law shall terminate if a translation of the work in the same language and with substantially the same content as the edition for which the licence is granted is published in copies in Ghana by or under the authority of the owner of the right of translation, at a price reasonably related to that normally charged in Ghana for comparable work; and any copies already made before the licence is terminated may continue to be distributed until the stock is exhausted.

23. (1) Subject to the provisions of sections 21 and 22 of this Law, a licence to translate a work published in printed form or other form of reproduction may also be granted, under this section to the Ghana Broadcasting Corporation where—

Translation
licence for
broadcasting.

- (a) the translation is made from a copy made and acquired in accordance with the laws of Ghana;
- (b) the translation is for use only in broadcasts intended exclusively for teaching or for the dissemination of the results of specialised technical or scientific research to experts in a particular profession;
- (c) the translation is in fact used exclusively for the purpose specified in paragraph (b) of this subsection, through broadcasts that are lawfully made and are intended for reception in Ghana, including broadcasts made from sound or visual recordings that are lawfully made and for the sole purpose of such broadcasts.

(2) A translation under this section of a sound or visual recording may be exchanged only between departments or divisions of the Ghana Broadcasting Corporation.

(3) A licence may also be granted under this section to the Ghana Broadcasting Corporation to translate any text incorporated in an audio-visual fixation that is itself prepared and published for the sole purpose of being used in connection with systematic instructional activities.

(4) No translation made under this section shall be used for commercial purposes.

24. (1) Where a literary, scientific or artistic work is published in printed form or other form of reproduction, the exclusive right to reproduce the work and publish it in copies shall be subject to compulsory licensing under the conditions specified in this section. Compulsory reproduction licence

(2) A person who is a citizen of Ghana or is ordinarily resident in Ghana may, subject to the provisions of this section, apply to the Secretary for a licence to reproduce or for the purpose of reproducing a particular edition of a work referred to in subsection (1) of this section and to publish or authorise the publication of such reproduction in copies.

(3) No licence shall be granted under this section—

(a) until the expiration, as the case may be, of a period of—

(i) three years commencing from the date of publication of a work of technology or of a natural or physical science including mathematics;

(ii) seven years commencing from the date of publication of a work of fiction, poetry, drama or music or for a book of art; and

(iii) five years commencing from the date of publication of any other work;

(b) unless the Secretary is satisfied that—

(i) there has never been a sale or other distribution, authorised by the owner of the reproduction right, of copies of the particular edition in Ghana to the general public or in connection with systematic instructional activities, at a price reasonably related to that charged in Ghana for comparable works; or that there has been no such sale or other distribution during the immediately preceding six months;

(ii) the applicant either has requested from the owner of the right of reproduction for his authorisation to reproduce the work and has been refused, or in spite of genuine efforts made by the applicant he has been unable to locate the owner;

(iii) the applicant, at the time of making such request, sent a notice of his request either to the International Copyright Information Centre at the United Nations Educational, Scientific and Cultural Organization (UNESCO), or a national or regional copyright information centre officially designated to that Organization by the government of the country where the publisher is believed to have his principal place of business;

- (iv) where the applicant cannot locate the owner of the right of reproduction, the applicant has by registered mail sent copies of his application to the publisher whose name appears on the work and also to the national or regional copyright information centre specified in subparagraph (iii) of this paragraph or in the absence of any such designated centre sent the second copy of his application to the International Copyright Information Centre of the United Nations Educational, Scientific and Cultural Organization.

(4) For the purposes of paragraph (b) (iii) of subsection (3) of this section the Copyright Administrator shall keep up-to-date records of such centres for easy reference or contact by interested persons.

(5) No licence shall be granted under this section until after the expiration of a period of six months commencing from the date of the request referred to in paragraph (b) (iii) of subsection (3) of this section or from the date of dispatch of the copies of the application in accordance with paragraph (b) (iv) of that subsection, which period shall run concurrently with the three years specified in paragraph (a) (i) of subsection (3) of this section.

(6) Where the author of a work has withdrawn all copies of an edition of the work from circulation no licence shall be granted under this section in respect of that edition.

25. (1) A licence granted under section 24 of this Law shall—

Scope and conditions of compulsory reproduction licence.

- (a) be limited to the non-exclusive right to reproduce the particular edition of the work in respect of which it is granted, and to publish copies of the reproduction in Ghana for use in connection with systematic instructional activities, but the price at which the reproduced copies are sold shall be at a level not higher than such amount as is reasonably related to the price normally charged in Ghana for comparable work;
- (b) not be transferable by the licensee;
- (c) not extend to the export of copies of the particular edition of the work in respect of which it is granted;
- (d) provide for just compensation, consistent with standards of royalties normally payable in the case of licences freely negotiated between persons in Ghana and the owners of the right of reproduction in any other country.

(2) Where a licence is granted under section 24 of this Law the licensee shall ensure that the particular edition of the work in respect of which the licence is granted is accurately reproduced and that all published copies include the following—

- (a) the title of the particular edition of the work and the name of the author;
- (b) a notice in the appropriate language stating that copies of the reproduced version of the works are available for distribution in Ghana only; and

- (c) if the edition which is reproduced bears a copyright notice, a reprint of that notice.

(3) A licence granted under section 24 of this Law shall terminate—

- (a) whenever copies of an edition of the work in respect of which the licence is granted is distributed to the general public in Ghana; or
- (b) whenever copies of the edition of the work is distributed in Ghana in connection with systematic instructional activities,

by or under the authority of the owner of the right of reproduction at a price reasonably related to that normally charged in Ghana for comparable work, if such edition is in the same language and is 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.

Reproduction
licence for
audio-visual
fixations.

26. (1) A licence may be granted under this section by the Secretary to an applicant—

- (a) to reproduce in audio-visual form a lawfully made audio-visual fixation, including any protected work incorporated in it; or
- (b) to translate any text incorporated in such fixation into either English or any Ghanaian language.

(2) No licence shall be granted under this section unless the audio-visual fixation is prepared and published for the sole purpose of being used in connection with systematic instructional activities.

Production
of copies of
records.

27. (1) A manufacturer of phonogram may make copies of any musical work or a similar adaptation thereof if—

- (a) copies of the musical work or a similar adaptation of them have previously been made in or imported into Ghana for the purpose of retail sale, and were so made with the licence of, or imported by, the owner of the copyright in such work; and
- (b) before the making of the copies the manufacturer gives the owner of the copyright notice of his intention to make the copies and the address at which he intends to make them.

(2) The manufacturer shall not later than fifteen days before the sale of any of the copies made by him under this section send to the owner of the copyright or the person authorised by him for the purpose by registered post notice of his intention to sell or otherwise distribute the copies made and such notice shall contain—

- (a) the name and address of the manufacturer;
- (b) the title of the work to which the notice under paragraph (b) of subsection (1) of this section relates, with a description sufficient to identify the author of the work and the publisher thereof;
- (c) the type of phonogram on which the manufacturer intends to produce the work and an estimate of the number of copies he initially intends to sell;

- (d) the ordinary selling price of the copies the manufacturer intends to reproduce and the amount of royalty payable in respect of them; and
- (e) the earliest date on which any of the copies may be available for sale.

(3) The manufacturer shall, within fourteen days after he has sent the notice referred to in subsection (2) of this section, pay royalties to the owner of the copyright, and shall have affixed to each copy of the phonogram made by him an adhesive label issued by the appropriate body or person as evidence of such payment.

(4) The royalty payable by the manufacturer under subsection (3) of this section shall be an amount not less than seven *per centum* of the ordinary retail selling price of each copy of the phonogram made under this section.

(5) It shall be an infringement of copyright where the manufacturer exhibits for sale or sells without the adhesive label referred to in subsection (3) of this section any copy of a phonogram made by him under this section.

28. The protection granted under the provisions of sections 29 to 38 of this Law relating to neighbouring rights shall not in any way affect copyright in a literary, scientific or artistic work under this Law, and accordingly no provision in any of the said sections shall be construed so as to affect copyright in any such work.

Neighbouring
rights
not to affect
copyright.

29. A performer shall have the right to authorise or prohibit the fixation, recording, communication to the public, transmission or any other form of use of his performance, and accordingly no person shall do any of the following acts without the authorisation of the performer—

Copyrights of
performers.

- (a) the broadcasting or communication to the public of his performance, except—
 - (i) where it is made for a previously authorised fixation; or
 - (ii) where the transmission is one that has been authorised by the broadcasting organization that transmits the first performance;
- (b) the fixation of his performance not previously fixed on a physical medium;
- (c) the reproduction of a fixation of his performance in the following cases:—
 - (i) where the performance is initially fixed without his authorisation;
 - (ii) where the reproduction is made for purposes other than those for which the performer gives his authorisation; and
 - (iii) where the performance is initially fixed in accordance with the provisions of this Law, but the reproduction is made for purposes other than those specified.

Authorisation relating to broadcast.

30. In the absence of any law or contract to the contrary, the authorisation to broadcast a performance under section 29 of this Law does not imply a consent—

- (a) to license other broadcasting organizations to transmit the performance;
- (b) to make a fixation of the performance;
- (c) to reproduce the fixation where authorisation is granted to broadcast and to make a fixation of the performance;
- (d) to broadcast the performance from the fixation or any reproduction of such fixation where the authorisation granted is to make a fixation of the performance and to reproduce the fixation.

Performer's right to contract.

31. Nothing in this Law shall be construed so as to remove the right of a performer to agree by contract on such terms and conditions as he thinks fit for the use of his performance by another person.

Authorisation by performer.

32. Where two or more performers take part in the same performance as a group, authorisation for the purposes of section 29 of this Law may be given by the legal representative of the group, if any, or by the leader of the group.

Rights of phonogram producers.

33. (1) The producer of a phonogram shall have the right to authorise or prohibit the reproduction of that phonogram.

(2) For the purposes of this section a copy of a phonogram shall be unlawful if with or without imitating the outward characteristics of the original work it incorporates all or part of the producer's phonogram without his authorisation.

(3) Where a phonogram that is published for commercial purposes or a reproduction thereof is used for broadcasting or for any other form of communication to the public the user shall pay to the producer such lump sum as is just in respect of remuneration to the producer and the performers.

Obligations of phonogram producers.

34. (1) The producer of a phonogram shall state on the label of the disc or on its container—

- (a) the name of the author and those of the main performers;
- (b) the title of the work;
- (c) the year of the cutting of the original matrix;
- (d) the name (whether individual or corporate) or distinguishing mark of the producer; and
- (e) that the rights accruing to the producer under this Law are reserved.

(2) For the purposes of paragraph (a) of subsection (1) of this section, choirs, orchestras and composers shall be referred to by their proper names and by the name of the leader, if any.

35. (1) Where copies of a phonogram are made for commercial purposes, there shall be printed on the copies a notice consisting of—

- (a) the symbol (P); and
- (b) the year of first publication of the phonogram,

placed in such a manner as to give reasonable notice of claim of protection of the rights of the producer.

Notice of protection of rights of producers of phonogram.

(2) Where the copies of the phonogram or their containers do not identify the producer or his licence in relation thereto by his name; description or trade mark, the notice shall also include the name of the person who owns the rights of the producer.

(3) Where the copies of the phonogram or their containers do not identify the principal performers, the notice shall also include the name of the person who owns the rights of the performers.

(4) Nothing in this Law shall prejudice the right of any person to use, in accordance with the provisions of this Law, fixations or reproductions made in good faith before the coming into force of this Law.

36. Where in any public place by means of broadcasting, cinematography, jukeboxes or other apparatus, phonographic discs or other devices are used in a public performance the authors, performers and the producers of the phonogram shall be entitled to royalties in accordance with the provisions of this Law.

Phonographic performance in public places.

37. A broadcasting organization shall have the exclusive right to authorise or prohibit—

Rights of broadcasting organizations.

- (a) the rebroadcasting of its broadcasts;
- (b) the fixation of its broadcasts; or
- (c) the reproduction of a fixation of its broadcasts where—
 - (i) the fixation used to make the reproduction is made without authorisation; or
 - (ii) the broadcast is initially fixed in accordance with the provisions of this Law, but the reproduction is made for purposes other than those specified.

Limitation on broadcasting rights.

38. The provisions of sections 29, 30, 32, 33, 36 and 37 of this Law shall not apply where the acts referred to are concerned with—

- (a) private use;
- (b) the reporting of current events, except that no more than short excerpts of a performance, phonogram or broadcast are used;
- (c) teaching or scientific research;
- (d) quotations in the form of short excerpts of a performance, phonogram or broadcast, which are compatible with fair practice and are justified by the informative purpose of those quotations.

The public domain.

39. (1) The following works shall belong to the public domain—

- (a) works whose terms of protection have expired;
- (b) works whose authors have renounced their rights; and
- (c) foreign works that do not enjoy protection in Ghana.

(2) For the purposes of paragraph (b) of subsection (1) of this section renunciation by an author or his successor in title of his rights referred to in subsection (1) of section 6 of this Law shall be by writing and made public, but any such renunciation shall not be contrary to any previous contractual obligation relating to the work.

(3) Subject to the payment of such fee as may be determined by the Secretary in relation thereto, a work that has fallen into the public domain may be used without any restriction.

(4) Any sums of money accruing from the payment of fees under subsection (3) of this section shall be paid into a fund which shall be established by the Secretary for the promotion of institutions for the benefit of authors, performers and translators.

Registration
of works,
etc.

40. (1) There shall be maintained by the Copyright Administrator registers in which shall be registered works, productions and associations of authors.

(2) The purposes of registration of works are—

- (a) to maintain a record of works;
- (b) to publicise the rights of the owners, and
- (c) to give evidence of the ownership of intellectual property.

(3) The publisher of a work in Ghana shall cause that work to be registered at the Copyright Office within three months of its publication and a copy of the best edition shall be deposited at that Office.

(4) Any publisher who contravenes any of the provisions of subsection (3) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand cedis.

41. (1) For the purposes of this Law there shall be established an office to be known as "the Copyright Office". The Copyright Office.

(2) Except as otherwise provided, the Copyright Office shall be responsible for the implementation of this Law.

(3) The Copyright Office shall have a Copyright Administrator and supporting staff all of whom shall be public officers and shall be appointed by the Provisional National Defence Council on such terms and conditions as the Council may determine.

42. There shall be established in Ghana a non-profit making body corporate which shall, among other things, be responsible for the promotion and protection of the interest of authors and, in particular the collection and distribution of any royalties or other remuneration accruing to them in respect of their rights under subsection (1) of section 6 of this Law. Society of authors.

43. (1) A person infringes another person's rights under this Law if without the licence or authorization of that other person or a person authorised by him to grant such licence or authorisation does, permits or causes another person to— Infringement of copyright, etc.

- (a) reproduce, duplicate, extract, imitate, or import into Ghana otherwise than for his private use or permit or cause to be reproduced, duplicated, extracted, imitated, or imported into Ghana otherwise than for his private use; or
- (b) distribute or permit or cause to be distributed in Ghana by way of sale or hire or otherwise; or
- (c) exhibit or permit or cause to be exhibited in public for commercial purposes, any work protected under this Law.

(2) For the purposes of this section the exploitation of a work in a manner prejudicial to the honour or reputation of the author shall be deemed an infringement of the rights of the author.

44. (1) Any person whose rights under this Law are in imminent danger of being infringed or are being infringed may initiate civil proceedings in the High Court— Civil Remedies.

(a) for an injunction to prevent the infringement or prohibit the continuation of the infringement; or

(b) for the recovery of damages for the infringement.

(2) Upon an ex parte application by the plaintiff, the Court may, in chambers, make an order for the inspection of or removal from the defendant's premises, copyright infringing materials which constitute evidence of infringement by the defendant.

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

(4) A person who sustains damage by reason of an infringement of his rights under this Law may institute civil proceedings against the person responsible for the infringement whether or not such person has been successfully prosecuted under this Law.

Offences relating to copyright, etc.

45. Any person who infringes any copyright or neighbouring right of another person under this Law shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than ₵10,000.00 and not exceeding ₵1,000,000.00 or to imprisonment not exceeding two years or both; and in the case of a continuing offence to a further fine not less than ₵5,000.00 and not exceeding ₵50,000.00 for each day during which the offence continues.

Offences relating to folklore,

46. (1) No person shall without the permission in writing of the Secretary import into Ghana, sell, offer or expose for sale or distribute in Ghana any copies of the following works made outside Ghana—

(a) works of Ghanaian folklore; or

(b) translations, adaptations, or arrangements of Ghanaian folklore.

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine of not less than ₵10,000.00 and not exceeding ₵1,000,000.00 or to imprisonment not exceeding two years or both; and in the case of a continuing offence to a further fine of not less than ₵5,000.00 for each day during which the offence continues.

Offences by bodies of persons.

47. (1) Where an offence is committed by a body of persons under this Law then—

(a) in the case of a body corporate other than a partnership, every director or secretary of the body corporate shall also be guilty of the offence; and

(b) in the case of a partnership, every partner shall also be guilty of that offence.

(2) No person shall be guilty of an offence under subsection (1) of this section if he proves to the satisfaction of the court that the offence in respect of which he is charged was committed by some person other than himself and was without his consent or connivance and that he exercised all such diligence to prevent the Commission of that offence as he ought to have exercised having regard to all the circumstances.

48. In addition to any punishment imposed by the court in respect of an offence under this Law the court may order—

Compensation to victim of offence.

- (a) that all sums of money arising out of the offence and received by the offender be accounted for by him and paid to the person entitled under this Law to those sums; and
- (b) that all reproductions, duplications, extracts, imitations and other material involved in the infringement, and that all implements or devices used in the infringement be forfeited and disposed of as the court may direct having regard to all the circumstances relating to the infringement.

49. (1) Notwithstanding the other provisions of this Law there may be appointed by the Secretary arbitrators for the settlement of disputes under this Law where—

Arbitral proceedings.

- (a) in the opinion of the Secretary it is desirable so to do; or
- (b) the parties involved in a dispute apply to the Secretary so to do.

(2) The Secretary may, by legislative instrument, make regulations for the appointment of arbitrators, their proceedings and other matters relating thereto.

50. (1) The Secretary may, by legislative instrument, provide for reciprocal treatment in relation to the rights to which this Law relates, to be given to any country that provides protection for similar rights in respect of Ghana as given by this Law.

Extension of reciprocal protection.

(2) Without prejudice to the provisions of subsection (1) of this section works created in the countries specified in the Schedule to this Law, which countries are parties to the Universal Copyright Convention, are hereby protected.

51. (1) When any country other than Ghana becomes or ceases to be a party to the Universal Copyright Convention, the Secretary shall, by legislative instrument, amend the Schedule to this Law by inserting or deleting the name of that country, as the case may require:

Amendment of Schedule.

Provided that the Secretary shall not be required to insert the name of a country if, before the said Convention has come into force in respect of that country, the Government of Ghana has given notice that it declines to recognise the accession of that country.

(2) An instrument made under this section may contain transitional and consequential provisions as the Secretary thinks necessary.

Regulations. 52. (1) The Secretary may, by legislative instrument, make such regulations as he may think fit for the purpose of giving full effect to the provisions of this Law.

(2) Without prejudice to the provisions of subsection (1) of this section regulations made thereunder may provide for—

- (a) anything to be prescribed under this Law;
- (b) the application for a compulsory translation or reproduction licence and related procedures;
- (c) measures to ensure the payment and transfer in convertible currency of compensation payable in respect of a compulsory translation or reproduction licence;
- (d) the registration and deposit of works;
- (e) the establishment of a fund in accordance with section 5 of this Law;
- (f) the administration of the Copyright Office;
- (g) the appointment, duties and proceedings of arbitrators;
- (h) the form and scope of contracts and licences relating to publishing, performing, photographic and cinematographic productions;
- (i) the designation of Ghanaian folklore.

Interpretation.

53. In this Law unless the context otherwise requires—

“artistic work” means irrespective of artistic quality any of the following works—

- (a) paintings, drawings, etchings, lithographs, woodcuts, engravings or prints;
- (b) photography not comprised in a cinematograph film;
- (c) maps, plans or diagrams;
- (d) sculpture;
- (e) works of architecture in the form of buildings or models; or
- (f) works of applied art, whether handicraft or produced on an industrial scale;

“author” means a person who creates a work, but in the case of a broadcast transmitted from within a country, means the person by whom the arrangements for the making of the transmission within that country were undertaken; and in the case of a cinematographic film or sound recording means the person by whom the arrangements for the making of the film or recording were undertaken;

“broadcasting” means the transmitting for reception by the general public over a distance by means of radio, television electromagnetic emissions, light beams, wire, cable or other means;

“choreographic work” includes all forms of dance, whether or not in dramatic form;

“cinematographic work” means a fixation in a physical medium of images synchronised with or without sound, including video tapes and videograms.

“copy” means a reproduction of a work in a written form, or in the form of a recording or film, 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;

“derivative work” means a work resulting from adaptation, translation or other transformation of an original work in so far as it constitutes an independent creation;

“distribution” for the purposes of section 9 of this Law means any operation by which programme-carrying signals are transmitted to the general public or any section thereof;

“distributor” for the purposes of section 9 of this Law means the person who decides that the distribution should take place;

“fixation” means the embodiment of images or sounds in a material form sufficiently permanent or stable to permit them to be perceived, reproduced or communicated;

“folklore” means all literary, artistic and scientific work belonging to the cultural heritage of Ghana which were created, preserved and developed by ethnic communities of Ghana or by unidentified Ghanaian authors, and any such works designated under this Law to be works of Ghanaian folklore;

“literary work” includeir respective of literary quality, any of the following—

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

“musical work” includes any musical work irrespective of its musical quality and words composed for musical accompaniment;

“neighbouring rights” includes rights of performing artistes in their performances, the rights of producers of phonograms in their phonograms and the rights of broadcasting organizations in their Radio and Television programmes.

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

“performer” means the actor, dancer, declaimer, musician, singer or other person who performs a literary or artistic work and includes the conductor or director of a performance of any such work;

“phonogram” means any exclusively aural fixation of sounds of a performance or of other sounds;

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

“public place” means any building, place or conveyance to which for the time being the public are entitled or permitted to have access, either without any condition or upon condition of making any payment, and includes theatres, cinemas, concert halls, dance halls, bars, clubs, sports grounds, holiday resorts, circuses, restaurants and commercial, banking and industrial establishments;

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

“Secretary” means the Provisional National Defence Council Secretary responsible for Information;

“sound recording” means work that results from the fixation of a series of musical, spoken or other sound, but does not include sounds accompanying a motion

picture or other audio-visual work regardless of the nature of the material objects in which those sounds are embodied;

“work of joint authorship” means a work created by two or more authors in collaboration, in which the individual contributions are indistinguishable from each other;

54. The Copyright Act, 1961 (Act 85) is hereby repealed.

Repeal.

55. The repeal of the Copyright Act, 1961 (Act 85) shall not affect any copyright or other rights that were vested in any person by virtue of that Act, and any such rights shall continue to be enforceable as if they were conferred upon him under this Law.

Saving.

SCHEDULE

COUNTRIES IN RESPECT OF WHICH WORKS ARE
PROTECTED UNDER SECTION 48(2) BEING PARTIES
TO THE UNIVERSAL COPYRIGHT CONVENTION

Algeria
Andorra
Argentina
Australia
Austria
Bahamas
Bangladesh
Belgium
Brazil
Bulgaria
Cameroon
Canada
Chile
Colombia
Costa Rica
Cuba
Czechoslovakia

Japan
Kenya
Laos
Lebanon
Liberia
Liechtenstein
Luxembourg
Malawi
Malta
Mauritius
Mexico
Monaco
Morocco
Netherlands
New Zealand
Nicaragua
Nigeria

Democratic Kampuchea
Denmark
Ecuador
El Salvador
Fiji
Finland
France
German Democratic Republic
Germany, Federal Republic of
Greece
Guatemala
Guinea
Haiti
Holy See
Hungary
Iceland
India

Pakistan
Panama
Paraguay
Peru
Philippines
Poland
Portugal
Senegal
Soviet Union
Spain
Sweden
Switzerland
Tunisia
United Kingdom
United States of America
Venezuela
Yugoslavia

Ireland
Israel
Italy
Norway

Zambia
Belize
Dominican Republic

Made this 21st day of March, 1985.

FLT.-LT. JERRY JOHN RAWLINGS
Chairman of the Provisional National Defence Council

Date of *Gazette* notification: 21st June, 1985.
