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**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**

GUYANA

The present document reproduces the text<sup>1</sup> of the Copyright Bill, 1999, including an Explanatory Memorandum, as notified by Guyana under Article 63.2 of the Agreement (see document IP/N/1/GUY/1).

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**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**

GUYANA

Le présent document contient le texte<sup>1</sup> du projet de Loi sur le droit d'auteur de 1999, y compris un mémoire explicatif, notifié par le Guyana au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/GUY/1).

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**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**

GUYANA

En el presente documento se reproduce el texto<sup>1</sup> del Proyecto de Ley de Derecho de Autor de 1999, incluido un Memorandum Explicativo, que Guyana ha notificado en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/GUY/1).

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<sup>1</sup> In English only./En anglais seulement./En inglés solamente.

**GUYANA**

**BILL No. 1999**

**COPYRIGHT BILL 1999**

**ARRANGEMENT OF SECTIONS**

*SECTION*

**PART I - PRELIMINARY**

1. Short title and commencement .
2. Interpretation .
3. Publication ,
4. Lawful reception of broadcast .

**PART II - COPYRIGHT**

*Protected Works*

5. Requirements for protection .
6. Category of eligible works .
7. Qualification for protection: author ,
8. Qualification for protection: place of publication, etc.
9. Nature of copyright protection: economic and moral rights .

*Duration of Copyright Protection*

10. Duration of copyright in literary, etc. works .
11. Duration of copyright in sound recordings and films ,
12. Duration of copyright in broadcasts and cable programmes ,
13. Duration of copyright in typographical arrangements ,

### **PART III - MORAL RIGHTS AND RELATED RIGHTS**

#### *Identification with Work*

14. Right to be identified as author, etc.

#### *Objection to Treatment of Work*

15. Right to object to derogatory treatment of work .

#### *Related Rights*

16. False attribution of work ,  
17. Right to privacy of photographs and films.

#### *Supplementary*

18. Duration of moral rights and related rights .  
19. Consent and waiver of rights .  
20. Application of provisions to joint works-  
21. Application of provisions to parts of work.

### **PART IV - OWNERSHIP AND ASSIGNMENT OF RIGHTS**

#### *Ownership of Copyright*

22. Ownership of copyright,

#### *Assignment of Copyright*

23. Assignment and licences.  
24. Prospective ownership of copyright,  
25. Rights of exclusive licensee .  
26. Copyright in manuscript passes under will.  
27. Moral rights, etc. not assignable .  
28. Transmission of moral rights, etc. on death.

## **PART V- INFRINGEMENT OF RIGHTS**

### *General Provisions*

- 29. Meaning of "action".
- 30. Part subject to other provisions.

### *Infringement of Copyright*

- 31. Acts infringing copyright.

### *Remedies of Copyright Owner*

- 32. Action by owner of copyright.
- 33. Order for delivery up in civil proceedings.

### *Remedies of Exclusive Licensee*

- 34. Infringement of rights of exclusive licensee.
- 35. Infringement where rights concurrent.

### *Infringement of Moral Rights and Related Rights*

- 36. Infringement of right to be identified as author or director.
- 37. Infringement of right to object to derogatory treatment of work.
- 38. Infringement by possession of infringing article.
- 39. Acts not infringing section 15.
- 40. False attribution of work: infringement of right.
- 41. Infringement of privacy right in photographs, etc.
- 42. Effect of consent and waiver of rights.

### *Remedies for Infringement of Moral Rights and Related Rights*

- 43. Remedies for infringing moral rights, etc.

*Presumptions*

- 44. Presumptions where action relates to literary works, etc.
- 45. Presumptions where action relates to sound recording, film or computer program.

*Offences*

- 46. Penalties in respect of dealings which infringe copyright.
- 47. Presumptions not to apply.
- 48. Order to deliver up in criminal proceedings.

*Supplementary*

- 49. Application of provisions as to entry, etc.
- 50. Restricting importation of infringing copies.

**PART VI - EXCEPTIONS TO INFRINGEMENT OF COPYRIGHT**

*Preliminary*

- 51. Definition of "sufficient acknowledgment".

*General Exceptions*

- 52. Research and private study.
- 53. Criticism, review and reporting .
- 54. Determining fair dealing .
- 55. Incidental inclusion of protected work .

*Use of Work for Educational Purposes*

- 56. Acts done for purposes of instruction or examination .
- 57. Anthologies for educational use .
- 58. Recording of broadcast, etc. by educational establishments .
- 59. Restriction on reprographic copying by educational establishment .
- 60. Subsequent dealings with authorized copies .

*Exceptions Affecting Libraries and Archives*

- 61. Interpretation of references; regulations .
- 62. Supply by librarian of copies of published work .
- 63. Supply of copies to other libraries .
- 64. Replacing copies of works .
- 65. Copying of unpublished work.

*Exceptions Relating to Public Administration*

- 66. Parliamentary and judicial proceedings, etc.
- 67. Public Records.

*Designs*

- 68. Design documents and models.
- 69. Where design derived from artistic work is exploited .

*Exception Relating to Works in Electronic Form*

- 70. Transfer of works in electronic form .

*Miscellaneous Exceptions Relating to Literary,*

*Dramatic, Musical and Artistic Works*

- 71. Anonymous and pseudonymous literary etc. works .
- 72. Use of notes of recordings of spoken word .
- 73. Reading or recitation in public .
- 74. Representation of artistic works on public display .
- 75. Reconstruction of buildings .
- 76. Subsequent work by same artist .

*Miscellaneous Exceptions Relating to Sound Recordings,*

*Films and Computer Programs*

- 77. Making, etc., of recordings of musical work previously made or imported.
- 78. Rental of sound recordings, etc.
- 79. Playing of sound recording for purposes of charitable organization.

*Miscellaneous Exceptions Respecting Broadcasts*

*and Cable Programmes*

- 80. Incidental recording for purposes of broadcast or cable programme.
- 81. Recordings of broadcasts for programme control.
- 82. Recording for archival purposes.
- 83. Reception and retransmission of broadcast in cable programme service.
- 84. Recording for purpose of time shifting.

*Adaptations*

- 85. Adaptations.

*Prescribed Exceptions*

- 86. Power of Minister to prescribe exceptions to infringement.

**PART VII - COPYRIGHT LICENSING**

*Preliminary*

- 87. Interpretation for purposes of Part.
- 88. Licensing schemes to which sections 89 to 94 apply.

*References and Applications Respecting Licensing Schemes*

- 89. Reference of proposed licensing scheme.
- 90. Reference of existing licensing scheme.

91. Further reference of scheme .
92. Application for grant of licence in connection with licensing scheme
93. Application for review as to entitlement to licence .
94. Effect of order of Tribunal as to licensing scheme .

*References and Applications Respecting Licences and Licensing Bodies*

95. Licences to which sections 96 to 99 apply .
96. Reference to Tribunal of proposed licence .
97. Reference to Tribunal of expiring licence .
98. Tribunal may review order as to licence .
99. Effect of order of Tribunal as to licence .

*Supplementary*

100. <sup>to be</sup> Matters/prescribed for Tribunal .
101. Royalty payable for rental of sound recording, etc.
102. Ministerial order in relation to licensing scheme :

**PART VIII - THE COPYRIGHT TRIBUNAL**

103. Establishment of Copyright Tribunal .
104. Jurisdiction of Tribunal .
105. Regulations relating to proceedings of Tribunal .
106. Appeal on point of law .

**PART IX - RIGHTS IN PERFORMANCES**

107. Conferment of rights in performances

*Performers' Rights*

108. Consent required for recording etc. of performance .
109. Infringement of performer's rights by use of recording .



- 110. Consent and royalty for adaptation of recording .
- 111. Infringement of performer's rights by importing, etc. illicit recording .

*Rights of Person Having Recording Rights*

- 112. Consent required for recording performance subject to exclusive contract .
- 113. Infringement of recording rights by use of recording .
- 114. Infringement of recording rights by importing, etc. illicit recording .

*Exceptions to Infringement*

- 115. Permitted acts in relation to performances .
- 116. Fair dealing for criticism, etc.
- 117. Incidental inclusion of performance or recording .
- 118. Acts done to recording or performance for purposes of instruction, etc.
- 119. Recording of broadcast or cable programme by educational establishment .
- 120. Acts done to performance or recording for Parliamentary proceedings, etc.
- 121. Transfer of recording of performance in electronic form .
- 122. Use of recordings of spoken words .
- 123. Playing sound recording for charitable purposes .
- 124. Incidental recording for purposes of broadcast or cable programme .
- 125. Recordings for supervision and control of programmes .
- 126. Recording of broadcast, etc. for archival purposes .
- 127. Order excepting acts from infringing rights under this Part .

128. Tribunal may consent on behalf of performer .

*Duration and Transmission of Rights in Performances; Consent*

129. Duration of rights in performances .  
130. Transmission of rights in performances .  
131. Consent .

*Remedies for Infringement of Rights in Performances*

132. Infringement as breach of duty.  
133. Order for delivery up of illicit recording in civil proceedings .

*Offences*

134. Criminal liability for making, etc. illicit recordings .  
135. Order for delivery up of illicit recording in criminal proceedings .  
136. False representation of authority to give consent.

**PART X -GENERAL**

137. Order for disposal of infringing copy or illicit recording .  
138. Period after which delivery up not available .  
139. Time limit for prosecution .  
140. Powers of members of Police Force .  
141. Restrictions on the entry and search of domestic premises .  
142. Obstruction of members of the Police Force .  
143. Offences by body corporate .  
144. Power to apply provisions of Act to other country.  
145. Denial of copyright or rights in performances .  
146. International organizations .

- 147. Territorial waters and exclusive economic zone.
- 148. Act applies to ships, aircraft registered in State.
- 149. Act binds State.
- 150. Regulations.
- 151. Repeals.
- 152. Savings.
- 153. Transitional provisions.

## **SCHEDULE**

A BILL  
Intituled

AN ACT to make better provision with respect to copyright, to  
confer rights on performers and others in performances  
and for matters connected therewith.

A.D. 1999

ENACTED by the Parliament of Guyana: -

PART I  
PRELIMINARY

Short title and  
commencement.

1. This Act may be cited as the Copyright Act  
1999 and shall come into operation on such date as the Minister  
may by order appoint.

Interpretation.

2. (1) In this Act -

(a) "adaptation" means -

(i) in relation to a literary or dramatic work -

(A) a translation of the work which, as respects  
a computer programme, includes a version of  
the programme in which it is converted into or  
out of a computer language or code or into a  
different computer language or code,  
otherwise than incidentally in the course  
of running the programme;

(B) a version of a dramatic work in which it is  
converted into a non-dramatic work or, as the  
case may be, of a non-dramatic work in which  
it is converted into a dramatic work;

(C) a version of a work in which the story or  
action is conveyed wholly or mainly by means  
of pictures in a form suitable for reproduction  
in a book or in a newspaper, magazine or  
similar periodical;

(ii) in relation to a musical work, an arrangement or  
transcription of the work;

- (b) "article" in the context of an article in a periodical, includes an item of any description;
- (c) "artistic work" means -
  - (i) a graphic work, photograph, sculpture or collage, whether the work is of artistic quality or not;
  - (ii) a building or a model of a building, whether the building or model is of artistic quality or not; or
  - (iii) a work of artistic craftsmanship to which neither paragraph (i) nor (ii) applies;
- (d) "author" in relation to a work, means the person who creates it, being in relation to -
  - (i) a literary or dramatic work, the author of the work;
  - (ii) a musical work, the composer;
  - (iii) an artistic work other than a photograph, the artist;
  - (iv) a photograph, the photographer;
  - (v) a sound recording or film, the person by whom the arrangements necessary for the making of the recording or film are undertaken;
  - (vi) the typographical arrangement of a published edition, the publisher;
  - (vii) a broadcast within the meaning of section 4(2), the person making the broadcast or in the case of a broadcast by reception and immediate re-transmission, the person making that other broadcast;
  - (viii) a cable programme, the person providing the cable programme service in which the programme is included;
  - (ix) a computer-generated literary, dramatic, musical or artistic work, the person by whom the arrangements necessary for the creation of the work are undertaken,

and in relationship to a work of a joint authorship, references in this Act to the author of a work shall, except as otherwise provided, be construed as references to all the authors of the work;

- (e) "a broadcast" means a transmission by wireless telegraphy of visual images, sounds, or other information which -
  - (i) having regard to section 4, is capable of being lawfully received by members of the public; or
  - (ii) is transmitted for presentation to members of the public;
- (f) "to broadcast" means to transmit by wireless telegraphy, visual images or sounds, or both, for reception by the public notwithstanding that -
  - (i) subsequent to the initial transmission, but before reception by the public, the images or sounds may be carried on a path provided by a material substance;
  - (ii) the public receiving or capable of receiving the images or sounds is in a country other than that from which the original transmission took place;
  - (iii) no member of the public actually received the images or sounds, provided only that members of the public could, if in possession of suitable apparatus, receive them,and "broadcasting" and "re-broadcasting" have corresponding meanings;
- (g) "building" includes a fixed structure of any kind and a part of a building or fixed structure;
- (h) "business" includes a trade or profession;

- (i) "cable programme" means any item included in a cable programme service and any reference in this Act -
  - (i) to the inclusion of a cable programme or work in a cable programme service is a reference to its transmission as part of the service; and
  - (ii) to the person including it is a reference to the person providing the service;
- (j) "cable programme service" means a service which consists wholly or mainly of sending visual images, sounds or other information by means of a telecommunications service, otherwise than by wireless telegraphy, for reception -
  - (i) at two or more places, whether for simultaneous reception or at different times in response to requests by different users; or
  - (ii) for presentation to members of the public, and which is not, or to the extent that it is not, excepted by regulations made under this Act;
- (k) "collective work" means -
  - (i) a work of joint authorship; or
  - (ii) a work in which there are distinct contributions by different authors or in which works or parts of works of different authors are incorporated;
- (l) "computer-generated work" means a work generated by a computer in circumstances such that the work has no human author;
- (m) "computer programme" means a set of instructions, whether expressed in words or in schematic or other form, which is capable, when incorporated in a machine-readable medium, of causing an electronic or other device having information-processing capabilities to indicate, perform or achieve a particular function, task or result;

- (n) "copy" in relation to -
- (i) a work that is a literary, dramatic, musical or artistic work, means a reproduction of the work in any material form and, in respect of an artistic work, includes a reproduction in three-dimensions if the artistic work is a two-dimensional work and a reproduction in two-dimensions if the artistic work is a three-dimensional work;
  - (ii) a work that is a film, television broadcast or cable programme, includes a photograph of the whole or any substantial part of any image forming part of the film, broadcast or cable programme;
  - (iii) a work that is a typographical arrangement of a published edition, means a facsimile copy of the arrangement; and
  - (iv) any description of work, includes a copy of the work that is transient or incidental to some other use of the work,
- and references to the copying of a work of any description shall be construed to include a reference to storing the work in any medium by electronic means;
- (o) "copyright" refers to copyright within the meaning of Part II;
- (p) "Copyright Tribunal" or "Tribunal" means the Tribunal established under section 103;
- (q) "country" includes any territory;
- (r) "distribution" means distribution to the public, for commercial purposes of copies of a work by way of rental, lease, hire, loan or similar arrangement;
- (s) "dramatic work" includes a work of dance or mime;
- (t) "educational establishment" means any school, college or other educational body;



- (u) "exclusive licence" means a licence in writing signed by or on behalf of the owner of copyright in a work authorising the licensee, to the exclusion of all other persons, including the person granting the licence, to exercise a right which would otherwise be exercisable exclusively by the owner of the copyright;
- (v) "exclusive recording contract" means a contract between a performer and another person under which that person is entitled, to the exclusion of all other persons, including the performer, to make recordings of one or more of his performances with a view to their being shown or played in public, sold, let for hire or otherwise commercially exploited;
- (w) "film" means a recording on any medium from which a moving image may by any means be produced;
- (x) "future copyright" means copyright which will or may come into existence in respect of any future work or class of works or on the occurrence of a future event, and "prospective owner" shall be construed accordingly and, in relation to any such copyright, includes a person prospectively entitled thereto by virtue of an agreement mentioned in section 24;
- (y) "graphic work" includes -
  - (i) any painting, drawing, diagram, map, chart or plan; and
  - (ii) any engraving, etching, lithograph, woodcut or similar work;
- (z) "illicit recording", in relation to a performance, means a recording wherever made, the making of which constitutes an infringement of the rights conferred on the performer or a person having recording rights in relation to the performance pursuant to Part IX,

and which does not fall within any of the exceptions specified in or authorised pursuant to any provision of that Part.

(2) In this Act -

- (a) "infringing copy", in relation to a protected work, means -
  - (i) any copy of the work, the making of which is not authorised under or by virtue of any provision of this Act;
  - (ii) any copy of the work that is or is proposed to be imported into Guyana and its making in Guyana would have constituted an infringement of the copyright in the work in question or a breach of an exclusive licence relating to that work;
- (b) "literary work" means any work, other than a dramatic or musical work, which is written, spoken or sung; and includes -
  - (i) a written table or compilation; and
  - (ii) a computer programme;
- (c) "manuscript", in relation to a work, means the original document embodying the work whether written by hand or not;
- (d) "musical work" means a work consisting of music, exclusive of any words or action intended to be sung, spoken or performed with the music;
- (e) "performer" means any actor, singer, musician, dancer or other person who acts, sings, depicts, delivers, declaims, plays in or otherwise performs, a literary, dramatic, musical or artistic work; and references to the performer in the context of the person having performer's rights, shall be construed to include references to the person who, pursuant to any provision of this Act, is for the time being entitled to exercise those rights;

- (f) "performance" in relation to -
- (i) the rights conferred under Part IX, includes -
    - (A) a dramatic performance which includes dance and mime;
    - (B) a musical performance;
    - (C) a reading or recitation of a literary work; or
    - (D) a performance of a variety act or any similar presentation, that is, or to the extent that it is, a live performance, given by one or more individuals; and
  - (ii) a copyright in literary, dramatic or musical work includes -
    - (A) delivery in the case of lectures, addresses, speeches and sermons;
    - (B) any mode of visual acoustic presentation, including presentation by means of a sound recording, film, broadcast or cable programme of the work;
- (g) "person having recording rights" in relation to a performance, means a person who -
- (i) is a party to, and has the benefit of, an exclusive recording contract to which the performance is subject or to whom the benefit of such a contract has been assigned; and
  - (ii) is a qualified person,
- so, however, that, where a performance is subject to an exclusive recording contract but the person mentioned in paragraph (i) is not a qualified person, the expression shall be deemed to extend to any qualified person who is licensed by the person mentioned in paragraph (i) to make recordings of the performance with a view to their being shown or played in public, sold, let for hire or

otherwise commercially exploited or to whom the benefit of such a licence has been assigned;

- (h) "photograph" means a recording of light or other radiation on any medium on which an image is produced or from which an image may by any means be produced, and which is not part of a film;
- (i) "place of public entertainment" includes any premises which are from time to time made available for hire to such persons as may desire to hire them for purposes of public entertainment, including premises that are occupied mainly for other purposes;
- (j) "prospective owner" has the meaning assigned to it in the definition of "future copyright";
- (k) "protected work" means a work in which copyright subsists by virtue of this Act;
- (l) "publication" and "commercial publication" have the meanings assigned to those expressions, respectively by section 3;
- (m) "published edition", in relation to copyright in the typographical arrangement of a published edition, means the published edition of the whole or any part of one or more literary, dramatic, musical or artistic works;
- (n) "qualified person" means -
  - (i) in the case of an individual, a person who is a citizen of, or whose habitual residence is in, Guyana or a specified country; and
  - (ii) in the case of a body corporate, a body incorporated or established under any law in force in Guyana or a specified country;

- (o) "qualifying performance" means a performance that -
  - (i) is given by an individual who is a qualified person; or
  - (ii) takes place in Guyana or a specified country;
- (p) "record" means any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable of being reproduced therefrom, other than a soundtrack associated with a film, but includes, in relation to a performance, a film incorporating the performance;
- (q) "recording", in relation to a performance, means a film or sound recording -
  - (i) made directly from the live performance;
  - (ii) made from a broadcast of, or cable programme including, the performance; or
  - (iii) made directly or indirectly from another recording of the performance;
- (r) "rental" means any arrangement under which a copy of a work is made available -
  - (i) for payment in money or money's worth; or
  - (ii) in the course of a business, as part of services or amenities for which payment is made,on terms that it will or may be returned;
- (s) "reprographic process" means a process -
  - (i) for making facsimile copies; or
  - (ii) involving the use of an appliance for making multiple copies,and in relation to a work held in electronic form, includes any copying by electronic means but does not include the making of a film or sound recording;
- (t) "sculpture" includes a cast or model made for purposes of sculpture;

- (u) "sound recording" means -
    - (i) a recording of sounds from which sounds may be reproduced; or
    - (ii) a recording of the whole or any part of literary, dramatic or musical work from which sounds reproducing the work or part thereof may be produced,  
regardless of the medium on which the recording is made or the method by which the sounds are reproduced or produced;
  - (v) "specified country" means a country specified by the Minister by order made under section 144;
  - (w) "telecommunication service" means a system for conveying visual images, sounds or other information by electronic means;
  - (x) "typeface" includes an ornamental motif used in printing;
  - (y) "unauthorised", when used to describe any act done in relation to a work means -
    - (i) if copyright subsists in the work, any act done otherwise than by or with the licence of the owner of the copyright;
    - (ii) if copyright does not subsist in the work, any act done otherwise than by or with the licence of the author or person lawfully claiming under him;
  - (z) "wireless telegraphy" means the sending of electromagnetic energy over paths not provided by a material substance constructed or arranged for that purpose,
- (3) In this Act-

- (a) "work" means -
  - (i) a literary, dramatic, musical or artistic work;
  - (ii) a sound recording, film, broadcast or cable programme;
  - (iii) the typographical arrangement of a published edition;
- (b) "work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of each author is not separate from the contribution of the other author or authors;
- (c) "writing" includes any form of notation, whether by hand or by printing, typewriting or any other process and regardless of the method by which or the medium in or on which it recorded, and "written" shall be construed accordingly.

(4) References in this Act to the time at which, or the period during which, a work was made are references to the time or period at or during which it was first written down, recorded or expressed in some other material form.

Publi- 3.- (1) Subject to the following provisions of this section, for the purposes of this  
cation. Act publication in relation to a work means the issue of copies of the work to the public (whether by way of sale or otherwise) including, where the work is a literary, musical, dramatic or artistic work, the making available of copies to the public by means of an electronic retrieval system; and all related expressions shall be construed accordingly.

(2) References in this Act to the issue to the public of copies of a work are to the act of putting into circulation copies not previously put into circulation in Guyana or elsewhere, and not to-

- (a) any subsequent distribution, sale, hiring or loan of those copies; or
  - (b) any subsequent importation of those copies into Guyana
- except that in relation to sound recordings, films and computer programs, the act of issuing copies to the public includes any rental of copies to the public.

(3) For the purposes of this Act "commercial publication" in relation to a literary, dramatic, musical or artistic work means-

- (a) issuing copies of the work to the public at a time when copies made in advance of the receipt of orders are generally available to the public; or
- (b) making the work available to the public by means of an electronic retrieval system,

and related expressions shall be construed accordingly.

(4) In the case of a work of architecture in the form of a building or an artistic work incorporated in a building, construction of the building shall be treated as equivalent to publication of the work.

(5) The following do not constitute publication for the purposes of this Act-

- (a) <sup>the</sup>in case of a literary, dramatic or musical work-
  - (i) the performance of the work; or
  - (ii) the broadcasting of the work or its inclusion in a cable programme service (otherwise than for the purposes of an electronic retrieval system);



- (b) in the case of an artistic work-
  - (i) the exhibition of the work;
  - (ii) the issue to the public of copies of a graphic work representing, or of photographs of a work of architecture in the form of a building or a model for a building a sculpture or a work of artistic craftsmanship;
  - (iii) the issue to the public of copies of a film including the work; or
  - (iv) the broadcasting of the work or its inclusion in a cable programme service (otherwise than for the purposes of an electronic retrieval system);
- (c) in the case of a sound recording or film-
  - (i) the playing or showing of the work in public; or
  - (ii) the broadcasting of the work or its inclusion in a cable programme service.

(6) A publication that is merely colourable and is not intended to satisfy the reasonable requirements of the public shall be disregarded for the purposes of this Act except in so far as it may constitute an infringement of copyright or rights conferred on performers or persons having recording rights or may constitute an offence under this Act.

(7) For the purposes of this Act a publication in Guyana or in any other country shall not be treated as being other than the first publication by reason only of an earlier publication elsewhere, if the two publications took place within a period of not more than thirty days.

(8) In determining for the purposes of any provision of this Act-

- (a) whether a work has been published;
- (b) whether a publication of a work was the first publication of the work; or
- (c) whether a work was published or otherwise dealt with in the lifetime of a person,

any unauthorized publication or the doing of any other unauthorized act shall be disregarded.

Lawful reception of broadcast. 4.- (1) In relation to the broadcast of a work, an encrypted transmission shall be regarded as capable of being lawfully received by members of the public only if decoding equipment has been made available to members of the public by or with the authority of the person making the transmission or the person providing the contents of the transmission.

(2) References in this Act to the person making a broadcast, broadcasting a work or including a work in a broadcast are references -

- (a) to the person transmitting the programme to the extent that he has responsibility for its contents; and
- (b) to any person providing the programme who makes with the person transmitting it, the arrangements necessary for its transmission,

and references in this Act to a programme, in the context of broadcasting, are to any item included in a broadcast. <sup>references</sup> <sub>to</sub>

## PART II - COPYRIGHT

### *Protected Work*

Require- 5.- (1) Unless otherwise specifically provided in this Act, copyright shall not  
ments subsist in any work unless it satisfies the requirements specified in this Part as  
for respects-  
protec- (a) the category of work; and  
tion. (b) either-  
(i) the qualification of the author; or  
(ii) the country or place of first publication, or in the case of a  
broadcast or cable programme, the country or place where  
it is made or from which it is sent, as the case may be.

(2) If the requirements of this Part or of section 146 are once satisfied in  
respect of a work, copyright does not cease to subsist by reason of any subsequent  
event.

Categ- 6.- (1) Copyright is a property right which, subject to the provisions of this  
ory of section, may subsist in the following categories of work-

eligible (a) original literary, dramatic, musical or artistic works;  
works. (b) sound recordings, films, broadcasts or cable programmes;  
(c) typographical arrangements of published editions,

and copyright may subsist in a work irrespective of its quality or the purpose for  
which it was created.

(2) A compilation of data or other material (database), whether in  
machine-readable or other form, is eligible for protection as a literary work, but  
such compilation shall be regarded as original only if, by reason of the selection

or arrangement of its contents, the compilation constitutes the author's own intellectual creation; but such protection does not extend to any data or other material forming part of the compilation and is without prejudice to any copyright subsisting in any such data or other material.

(3) A literary, dramatic or musical work shall not be eligible for copyright protection unless it is recorded in writing or otherwise, and any reference in this Act to the time at which a work is made is a reference to the time at which it is so recorded.

(4) For the purposes of subsection (3), it is immaterial whether the work is recorded by or with the permission of the author; and where it is not recorded by the author, nothing in that subsection shall affect the question whether copyright subsists in the record of the work as distinct from the work recorded.

(5) Copyright shall not subsist in a sound recording or film which is, or to the extent that it is, a copy taken from a previous sound recording or film.

(6) Copyright shall not subsist in a broadcast which infringes, or to the extent that it infringes, the copyright in another broadcast or in a cable programme.

(7) Copyright shall not subsist in a cable programme-

- (a) if it is included in a cable programme service by reception and immediate re-transmission of a broadcast; or
- (b) if it infringes, or to the extent that it infringes, the copyright in another cable programme or in a broadcast.

(8) Copyright shall not subsist in the typographical arrangement of a published edition if, or to the extent that it reproduces the typographical arrangement of a previous edition.

(9) Copyright protection does not extend to an idea, concept, process, principle, procedure, system or discovery or things of a similar nature.

Quali - 7. - (1) A work qualifies for copyright protection if the author was a qualified  
fication person at the material time.

for pro- (2) A work of joint authorship qualifies for copyright protection if any of  
tection: the authors satisfies the requirement of subsection (1), so, however, that where a  
author. work qualifies for copyright protection only under this section, only those authors  
who satisfy such requirement shall be taken into account for the purposes of  
sections 9 and 22.

(3) In this section "the material time" means in relation to-

- (a) an unpublished literary, dramatic, musical or artistic work, when the work was made or, if the work extended over a period, a substantial part of that period;
- (b) a published literary, dramatic, musical or artistic work, when the work was first published or, if the author had died before that time, immediately before his death;
- (c) a sound recording or film, when it was made;
- (d) a broadcast, when the broadcast was made;
- (e) a cable programme, when the programme was included in a cable programme service;
- (f) the typographical arrangement of a published edition, when the edition was first published.

Qualifi - 8.- (1) A literary, dramatic, musical or artistic work, a sound recording or film, or  
cation the typographical arrangement of a published edition qualifies for copyright  
for pro- protection if, having regard to section 3, it is first published in Guyana  
tection: or a specified country.

place of (2) A broadcast qualifies for copyright protection if it is made  
publi- from a place in Guyana or a specified country by a broadcasting  
cation, organization in possession of a valid licence granted to it under any law in  
etc. Guyana or a specified country regulating broadcasting.

(3) A cable programme qualifies for copyright protection if it is sent  
from a place in Guyana or in a specified country in accordance with the  
in Guyana or that country  
law in force regulating transmission by cable.

Nature of 9.- (1) By virtue of and subject to the provisions of this Act, the owner of the  
copyright copyright in a work shall have the exclusive right to do or to authorize other  
protec- persons to do any of the following acts in Guyana :-  
tion: (a) to copy the work;  
eco- (b) to issue copies of the work to the public;  
nomic (c) to perform the work in public or, in the case of a sound recording,  
and film, broadcast or cable programme, to play or show the work in  
moral public;  
rights. (d) to broadcast the work or include it in a cable programme service;  
or  
(e) to make an adaptation of the work and, in relation to such  
adaptation, to do any or all of the foregoing acts.

(2) For the purposes of subsection (1) references to the doing of any act in  
relation to any work means the doing of the act-

- (a) in relation to the whole or any substantial part of the work; and
- (b) either directly or indirectly,

and it is immaterial whether any intervening acts themselves infringe copyright.

- (3) By virtue of and subject to the provisions of this Act-
- (a) the author of a literary, dramatic, musical or artistic work that is a protected work; or
  - (b) the director of a film that is a protected work,
- shall have in respect of such work, whether or not he is the owner of the copyright in the work, the moral rights specified in Part III.

*Duration of Copyright Protection*

Duration of copy-  
right in  
literary,  
etc.  
works.

10.- (1) Subject to the provisions of this section, copyright in any literary, dramatic, musical or artistic work expires at the end of the period of fifty years from the end of the calendar year in which the author dies.

(2) Where the authorship of a work referred to in subsection (1) is unknown, copyright in that work expires at the end of the period of fifty years from the end of the calendar year in which it was first made available to the public, and subsection (1) shall not apply if the identity of the author becomes known after the end of that period.

(3) For the purpose of subsection (2) acts which constitute the making available of a work to the public include-

- (a) in relation to a literary, dramatic or musical work, the performance of the work in public or its broadcast or inclusion in a cable programme service;
- (b) in relation to an artistic work, the exhibition of the work in public or its inclusion in a film shown to the public or in a broadcast or cable programme service,

so, however, that in determining for the purpose of this subsection whether a work has been made available to the public any unauthorized act shall be disregarded.

(4) The provisions of subsections (1) and (2) shall not apply to computer-generated work, the copyright in which expires at the end of the period of fifty years from the end of the calendar year in which the work was made.

(5) In relation to a work of joint authorship-

- (a) the reference in subsection (1) to the death of the author shall be construed-
  - (i) where the identity of all the authors is known, as a reference to the death of the last of them to die;
  - (ii) where the identity of one or more of the authors is known and the identity of one or more others is not, as a reference to the death of the last of the authors whose identity is known; and
- (b) the reference in subsection (2) to the identity of the author becoming known, shall be construed as a reference to the identity of any of the authors becoming known.

(6) This section does not apply to copyright which subsists by virtue of section 146.

Duration of copy-right in sound recordings and films.

11. - (1) Copyright in a sound recording or film expires at the end of the period of fifty years from the end of the calendar year in which it was made or, where it is made available to the public before the end of that period, fifty years from the end of the calendar year in which it is so made available.

(2) For the purposes of subsection (1) a sound recording or film is made available to the public when-

- (a) it is first published, broadcast or included in a cable programme service;



(b) in the case of a film or film sound-track, the film is first shown in public,

but in determining whether a sound recording or film has been made available to the public, any unauthorized act shall be disregarded.

Duration of copy- 12.- (1) Copyright in a broadcast or cable programme expires at the end of the period of fifty years from the end of the calendar year in which the broadcast was made or the programme included in a cable programme service.

right in broad casts and cable pro- (2) Copyright in a repeat broadcast or a repeat cable programme expires at the same time as copyright in the original broadcast or cable programme; and accordingly, no copyright arises in respect of a repeat broadcast or a repeat cable programme which is broadcast or, as the case may be, included in a cable programme service after the expiry of the copyright in the original broadcast or cable programme.

grammes. (3) Reference in subsection (2) to a repeat broadcast or a repeat programme means one which is a repeat of a broadcast previously made or as the case may be, of a cable programme previously included in a cable programme service.

Duration of copy- 13. Copyright in the typographical arrangement of a published edition expires at the end of the period of twenty-five years from the end of the calendar year in which the edition was first published.

right in typogra- phical arrange- ments.

### **PART III - MORAL RIGHTS AND RELATED RIGHTS**

#### *Identification with Work*

Right to be identified as author, etc. 14.(1) Subject to subsection (9) and to such exceptions as may be specified in or pursuant to any other provision of this Act, the author of a literary, dramatic, musical or artistic work that is a protected work and the director of a film that is a protected work have, respectively, the right to be identified as the author or, as the case may be, director of the work in the circumstances specified in this section.

(2) The author of a literary work (other than words intended to be sung or spoken with music) or a dramatic work has the right to be identified as such whenever-

- (a) the work or an adaptation thereof is published commercially, performed in public, broadcast or included in a cable programme service; or
- (b) copies of a film or sound recording including the work or an adaptation thereof are issued to the public.

(3) The author of a musical work or a literary work consisting of words intended to be sung or spoken with music, has the right to be identified as such whenever-

- (a) the work or an adaptation thereof is published commercially;
- (b) copies of a sound recording of the work or an adaptation thereof are issued to the public; or
- (c) a film, the sound-track of which includes the work, is shown in public or copies of such film are issued to the public.

(4) The author of an artistic work has the right to be identified as such whenever-

- (a) the work is published commercially or exhibited in public or a visual image of it is broadcast or included in a cable programme service;
- (b) a film including a visual image of the work is shown in public or copies of such a film are issued to the public; or
- (c) in the case of a work of architecture in the form of a building or a model for a building, a sculpture or a work of artistic craftsmanship, copies of a graphic work representing it or of a photograph of it, are issued to the public.

(5) In addition to the right specified in paragraph (c) of subsection (4), the author of a work of architecture in the form of a building has the right to be identified on the building as constructed or, where more than one building is constructed to the design, on the first to be constructed.

(6) The director of a film has the right to be identified as such whenever the film is shown in public, broadcast or included in a cable programme service or copies of the film are issued to the public.

(7) The right of an author or director under this section is -

- (a) in the case of commercial publication or the issue to the public of copies of a film or sound recording, to be identified in or on each copy or, if that is not appropriate, in some other manner likely to bring his identity to the notice of a person acquiring a copy;
- (b) in the case of identification on a building, to be identified by appropriate means visible to persons entering or approaching the building; and

- (c) in any other case, to be identified in a manner likely to bring his identity to the attention of a person seeing or hearing the performance, exhibition, film, broadcast or cable programme in question,

and the identification must, in each case, be clear and reasonably prominent.

(8) For the purposes of this section, any reasonable form of identification may be used.

(9) Except as may otherwise be explicitly provided by contract, the right conferred by this section does not apply in relation to-

- (a) a computer program, the design of a typeface or a computer-generated work;
- (b) any work made for the purpose of reporting current events;
- (c) the publication in a newspaper, magazine or similar periodical or in an encyclopaedia, dictionary, yearbook or other collective work of reference, of a literary, dramatic, musical or artistic work made for the purposes of such publication or made available with the consent of the author for purposes of such publication;
- (d) a work in which copyright originally vested in an international organization by virtue of section 146, unless the author or director has previously been identified as such in or on published copies of the work.

*Objection to Treatment of Work*

Right to  
object  
to dero-  
gatory  
treat-  
ment  
of  
work.

15.- (1) Subject to subsections (2) and (3) and to such exceptions as may be specified in or pursuant to any other provision of this Act, the author of a literary, dramatic, musical or artistic work that is a protected work and the director of a film that is a protected work have, respectively, the right not to have the work or any part thereof subjected to derogatory treatment, and such right is infringed by any person who does any of the acts specified in section 37 in the circumstances so specified.

(2) The right does not apply in relation to-

- (a) a computer program or to a computer-generated work;
- (b) fair dealing with any work made for the purpose of reporting current events;
- (c) the publication in any newspaper, magazine or similar periodical or in an encyclopaedia, dictionary, yearbook or other collective work of reference, of a literary, dramatic musical or artistic work made for the purposes of such publication, or made available with the consent of the author for the purposes of such publication, subject, in any particular case, to any agreement excluding the operation of the foregoing provisions of this paragraph to that case;
- (d) any subsequent publication elsewhere of such work as is referred to in paragraph (c), subject to any such agreement as is referred to in that paragraph.

(3) The right does not apply to anything done by or with the authority of the copyright owner in relation to works in which copyright originally vested in an international organization by virtue of section 146 unless the author or director-

- (a) is identified at the time of the relevant act; or
  - (b) has previously been identified in or on published copies of the work, and where in such a case the right does apply, it is not infringed if there is a sufficient disclaimer.
- (4) In this section-
- (a) "derogatory treatment" in relation to a work, means any addition to, deletion from, alteration to or adaptation of the work (not being a translation of a literary or dramatic work or an arrangement or transcription of a musical work involving no more than a change of key or register) which amounts to a distortion or mutilation of the work, or is otherwise prejudicial to the honour or reputation of the author or director, as the case may be; and
  - (b) "sufficient disclaimer" means a clear and reasonably prominent indication-
    - (i) given at the time of the act; and
    - (ii) if the author or director is then identified, appearing along with the identification,that the work has been subjected to treatment to which the author or director has not consented.

*Related Rights*

- False attribution of work.
- 16.- (1) A person has the right-
- (a) not to have a literary, dramatic, musical or artistic work falsely attributed to him as author; and
  - (b) not to have a film falsely attributed to him as director,
- and in this section "attribution", in relation to such work, means a statement, whether express or implied, as to the identity of the author or director.

(2) The right conferred by subsection (1) is infringed in the circumstances specified in section 40.

Right to privacy of photo- graphs and films.	17. Subject to section 41, a person who for private and domestic purposes commissions the taking of a photograph or the making of a film has, where the resulting work is a protected work, the right not to have-
	(a) copies of the work issued to the public;
	(b) the work exhibited or shown in public; or
	(c) the work broadcast or included in a cable programme service.

*Supplementary*

Duration of moral rights and related rights.	18.- (1) The rights conferred by sections 14, 15 and 17 subsists so long as copyright subsists in the work.
	(2) The right conferred by section 16 subsists until the end of the period of twenty years from the end of the calendar year in which the person dies.

Consent and waiver of rights.	19.- (1) A person having a right conferred under this Part may consent to the doing of any act affecting such right or may waive the right.
	(2) A right to which subsection (1) refers may be waived by instrument in writing signed by the person giving up the right, and the waiver-
	(a) may relate to works generally or to a specific work or class of works and may relate to existing or future works; and
	(b) may be conditional or unconditional and may be expressed to be subject to revocation.

(3) Where a waiver is made in favour of the owner or prospective owner of the copyright in the work or works to which it relates, it shall be presumed to extend to his licensees and successors in title, unless a contrary intention is expressed.

(4) Nothing in this Part shall be construed as excluding the operation of the general law of contract or estoppel in relation to an informal waiver or other transaction in relation to any of the rights to which this Part relates.

Applica-  
tion of  
provi-  
sions to  
joint  
works.

20.- (1) The right conferred under section 14 is, in the case of a work of joint authorship, a right of each joint author to be identified as a joint author.

(2) The right conferred by section 15 is, in the case of a work of joint authorship, a right of each joint author and his right is satisfied if he consents to the treatment in question.

(3) A waiver of rights under section 19 by one joint author does not affect the rights of the other joint authors.

(4) Subsections (1), (2) and (3) also apply, with such modifications as are necessary, in relation to a film which was, or is alleged to have been, jointly directed as they apply to a work which is, or alleged to be, a work of joint authorship; and for the purpose of this subsection, a film is "jointly directed" if it is made by the collaboration of two or more directors and the contribution of each director is not distinct from that of the other director or directors.

(5) The right conferred by section 17 is, in the case of a work made in pursuance of a joint commission, a right of each person who commissioned the making of the work, so that-

- (a) the right of each is satisfied if he consents to the act in question;  
and
- (b) a waiver under section 19 by one of them does not affect the rights in the others.



- Appli- 21. The rights conferred by-
- cation of (a) sections 14 and 17 apply in relation to the whole or any substantial
- provi- part of a work; and
- sions to (b) sections 15 and 16 apply in relation to the whole or any
- parts of part of a work.
- work.

#### **PART IV - OWNERSHIP AND ASSIGNMENT OF RIGHTS**

##### *Ownership of Copyright*

- Owner- 22.(1) Subject to the provisions of this section, the author of a protected work is
- ship of the first owner of any copyright in that work unless there is an agreement to the
- copy- contrary.
- right. (2) Subsection (1) shall not apply to copyright subsisting in a work pursuant to
- section 146.
- (3) Where a protected work is a work of joint authorship the authors thereof
- shall be co-owners of the copyright in that work.
- (4) In respect of folklore, that is to say, all literary and artistic works that -
- (a) constitute a basic element of the traditional and cultural heritage of
- Guyana;
- (b) were created in Guyana by various groups of the community; and
- (c) survive from generation to generation,
- the rights of the author vest in the State to the same extent as if the State had
- been the original creator of the folklore.
- (5) The rights of the State in respect of folklore are enforceable at the
- instance of the Attorney-General.

##### *Assignment of Copyright*

- Assign- 23. (1) Subject to the provisions of this section, copyright in a work may be
- ment transferred as moveable property by -
- and (a) assignment;
- licences. (b) testamentary disposition; or
- (c) operation of law,
- and a transfer pursuant to this section by way of assignment shall not be effective
- unless it is in writing and signed by or on behalf of the assignor.

(2) An assignment or other transfer of copyright may be partial, that is to say, limited so as to apply -

- (a) to one or more, but not all, of the things the owner of the copyright has the exclusive right to do;
- (b) to part, but not the whole, of the period for which copyright subsists.

(3) A licence granted by the owner of copyright in a work shall be binding on every successor in title to his interest in copyright except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the licence or a person deriving title from such a purchaser; and references in this Act to doing anything with or without the licence of the owner of the copyright shall be construed accordingly.

Prospective owner-ship of copy-right. 24.- (1) Where by an agreement made in relation to future copyright, and signed by or on behalf of the prospective owner of the copyright, the prospective owner purports to assign the future copyright (wholly or partially) to another person, then, if on the coming into existence of the copyright the assignee or another person claiming under him would be entitled as against all other persons to require the copyright to be vested in him, the copyright shall vest in the assignee or his successor in title by virtue of this subsection.

(2) A licence granted by a prospective owner of copyright is binding on every successor in title to his interest (or prospective interest) in the right, except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the licence or a person deriving title from such a purchaser; and references in this Act to doing anything with or without the licence of the copyright owner shall be construed accordingly.

- Rights of exclusive licensee. 25.- The licensee under an exclusive licence has the same rights against a successor in title who is bound by the licence as he has against the person granting the licence.
- Copy-right in manu-script passes under will. 26.- Where under a bequest (whether specific or general) a person is entitled, beneficially or otherwise, to-
- (a) an original document or other material thing that records or embodies a literary, dramatic, musical or artistic work which was not published before the death of the testator; or
  - (b) an original material thing containing a sound recording or film which was not published before the death of the testator,
- then, unless a contrary intention is indicated in the testator's will or a codicil to it, the bequest shall be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death.
- Moral rights not assignable. 27. The rights conferred under Part III are not assignable.
- Transmission of moral rights, etc. on death. 28.- (1) On the death of a person entitled to the right conferred by section 14, 15 or 17 -
- (a) the right passes to such person as he may by testamentary disposition specifically direct; or
  - (b) if there is no such direction but the copyright in the work in question forms part of his estate, the right passes to the person to whom the copyright passes,
- and if, or to the extent that, the right does not pass under paragraph (a) or (b), it is exercisable by his personal representatives.

(2) Where copyright forming part of a person's estate passes in part to one person and in part to another any right which passes with the copyright by virtue of subsection (1) is correspondingly divided.

(3) Where by virtue of paragraph(a) or (b) of subsection (1) a right becomes exercisable by more than one person, then-

- (a) where the right is conferred by section 15 or 17, it is a right exercisable by each of them and is satisfied in relation to any of them if he consents to the treatment or act in question; and
- (b) any waiver of the right in accordance with section 19 by one of them does not affect the rights of the others.

(4) A consent or waiver previously given binds any person to whom a right passes by virtue of subsection (1).

(5) Any infringement after a person's death of the right conferred by section 16 is actionable by his personal representatives.

(6) Any damages recovered by personal representatives by virtue of this section in respect of an infringement after a person's death shall devolve as part of his estate as if the right of action had subsisted and been vested in him immediately before his death.

## PART V - INFRINGEMENT OF RIGHTS

### *General Provisions*

- Meaning of "action". 29 In this Part, "action" includes a counterclaim and references to the plaintiff and to the defendant in an action shall be construed accordingly.
- Part subject to other provisions. 30. This Part shall have effect subject to such provisions of this Act as-
- (a) authorize the doing of specified acts in relation to a protected work; or
  - (b) provide for the licensing of a protected work.

### *Infringement of Copyright*

- Acts infringing copyright. 31.- (1) The copyright in a work is infringed by any person who, without the licence of the copyright owner, does, in relation to that work, any of the acts which the copyright owner has the exclusive right to do pursuant to section 9.
- (2) Copyright in a work is infringed by a person who, without the licence of the copyright owner, imports into Guyana for any purpose other than for his private and domestic use, an article which he knows or has reason to believe is, an infringing copy of the work.
- (3) Copyright in a work is infringed by a person who, without the licence of the copyright owner-
- (a) possesses in the course of a business;
  - (b) sells or lets for hire or offers or exposes for sale or hire;
  - (c) exhibits in public or distributes in the course of a business; or
  - (d) distributes otherwise than in the course of a business, to such an extent as to affect prejudicially the copyright owner,
- an article which is, and which he knows or has reason to believe is an infringing copy of the work.

(4) Copyright in a work is infringed by a person who, without the licence of the copyright owner-

- (a) makes;
- (b) imports into Guyana;
- (c) possesses in the course of a business; or
- (d) sells or lets for hire or offers for sale or hire,

an article specifically designed or adapted for making copies of that work, knowing or having reason to believe that it is to be used to make infringing copies.

(5) Copyright in a work is infringed by a person who, without the licence of the copyright owner, transmits the work by means of a telecommunications system (otherwise than by broadcasting or inclusion in a cable programme service) knowing or having reason to believe that infringing copies of the work will be made by means of the reception of the transmission in Guyana or elsewhere.

(6) Where the copyright in a literary, dramatic or musical work is infringed by a performance at a place of public entertainment, any person who gave permission for that place to be used for the performance is also liable for the infringement unless when he gave permission he believed on reasonable grounds that the performance would not infringe copyright.

(7) Where copyright in a work is infringed by a public performance of the work or by the playing or showing of the work in public by means of apparatus for playing sound recordings or showing films or receiving visual images or sounds conveyed by electronic means, the persons specified in subsection (8) are also liable for the infringement.

(8) The persons referred to in subsection (7) are-

- (a) a person who supplied the apparatus or any substantial part of it, if when he supplied the apparatus or part-
  - (i) he knew or had reason to believe that the apparatus was likely to be so used as to infringe copyright; or
  - (ii) in the case of apparatus whose normal use involves a public performance, playing or showing, he did not believe on reasonable grounds that it would not be so used as to infringe copyright;
- (b) an occupier of premises who gave permission for the apparatus to be brought onto the premises, if when he gave permission he knew or had reason to believe that the apparatus was likely to be so used as to infringe copyright; and
- (c) a person who supplied a copy of a sound recording or film used to infringe copyright, if when he supplied it he knew or had reason to believe that what he supplied or a copy made directly or indirectly from it, was likely to be so used as to infringe copyright.

*Remedies of Copyright Owner*

Action by owner of copyright. 32.- (1) An infringement of copyright shall be actionable at the suit of the copyright owner; and, subject to the provisions of this section, in any action for such an infringement all such relief by way of damages, injunction, accounts or otherwise, shall be available to the plaintiff as is available in respect of the infringement of other proprietary rights.

(2) Where in an action under this section an infringement of copyright is proved or admitted the court, having regard to any benefit accruing to the defendant by reason of the infringement, to the flagrancy of the infringement and to all other material considerations, shall have power to award such additional damages as the court may consider appropriate in the circumstances.

(3) Where in an action for infringement of copyright it is shown that at the time of the infringement the defendant did not know and had no reason to believe that copyright subsisted in the work to which the action relates, then, the plaintiff is not entitled to damages against him, but without prejudice to any other remedy.

Order 33.-(1) Subject to the provisions of this section and section 35 (6), where a person-

delivery (a) in the course of his business has an infringing copy of a work in  
up in his possession, custody or control; or

civil (b) has in his possession, custody or control an article specifically  
proceed- designed or adapted for making copies of a particular  
ings. protected work, knowing or having reason to believe that it has  
been or is being used to make infringing copies,

the copyright owner may apply to the court for an order that the infringing copy or article be delivered up to him or to such other person as the court may direct.

(2) An application under subsection (1) shall not be made after the end of the period specified in section 138 (1); and no order shall be made unless the court also makes, or it appears to the court that there are grounds for making, an order under section 137 for the disposal of the infringing copy or article, as the case may be.

(3) A person to whom an infringing copy or other article is delivered up pursuant to an order made under this section shall, if an order under section 137 is not made, retain it pending the making of an order or the decision not to make an order, under that section.



*Remedies of Exclusive Licensee*

Infringe- 34. An exclusive licensee has, except against the copyright owner, the same  
ment of rights and remedies in respect of matters occurring after the grant of the licence  
rights of as if the licence had been an assignment.  
exclusive  
licensee.

Infringe- 35.- (1) The rights and remedies of an exclusive licensee are concurrent with  
ment those of the copyright owner and references in the relevant provisions of this Act  
where to the copyright owner shall be construed accordingly.

rights (2) In an action brought by an exclusive licensee by virtue of this section,  
con- a defendant may avail himself of any defence which would have been available to  
current him if the action had been brought by the copyright owner.

(3) Where an action for infringement of copyright is brought by the  
copyright owner or by an exclusive licensee, and the action relates (wholly or  
partly) to an infringement in respect of which they have concurrent rights of  
action, the copyright owner or the exclusive licensee, as the case may be, shall  
not be entitled, except with the leave of the court, to proceed with <sup>the</sup> action, unless  
the other party is either joined as a plaintiff in the action or added as a defendant;  
but this subsection shall not affect the granting of an interlocutory injunction on  
the application of either of them.

(4) A copyright owner or exclusive licensee who is added as a defendant  
in pursuance of subsection (3) is not liable for any costs in the action unless he  
takes part in the proceedings.

(5) Where an action for infringement of copyright is brought which relates  
(wholly or partly) to an infringement in respect of which the copyright owner and

an exclusive licensee have or had concurrent rights of action, then, whether or not the copyright owner and the exclusive licensee are both parties to the action, the court-

- (a) shall, in assessing damages take into account the terms of the licence and any pecuniary remedy already awarded or available to either of them in respect of the infringement;
- (b) shall not direct an account of profits if an award of damages has been made or an account of profits has been directed in favour of the other of them in respect of the infringement; and
- (c) shall, if an account of profits is directed, apportion the profits between them as the court considers just, subject to any agreement between them.

(6) The copyright owner shall notify any exclusive licensee having concurrent rights before applying under section 33 for an order for the delivery up of infringing copies of a work, and the court may, on the application of the licensee, having regard to the terms of the licence, make such order under section 33 as it thinks fit.

*Infringement of Moral Rights and Related Rights*

Infringe- 36.- (1) Subject to subsection (2), the right conferred by section 14 is infringed  
ment of by any person who fails to identify the author of a work or the director of a film  
right to whenever any action specified in that section occurs in relation to that work or  
be identi- film.

fied as (2) The following acts shall not constitute an infringement of the right  
author conferred by section 14 in relation to a work to the extent that such acts are  
or permitted under Part VI in relation to the work-

director. (a) fair dealing with the work for the purposes of criticism, review or

the reporting of current events by means of a sound recording,  
film, broadcast or cable programme;

- (b) the incidental inclusion of the work in an artistic work, sound recording, film, broadcast or cable programme;
- (c) the use of the work for examination purposes;
- (d) acts done for the purposes of parliamentary or judicial proceedings or proceedings of a statutory inquiry;
- (e) the use of design documents and models;
- (f) the use of a design derived from artistic work;
- (g) acts permitted in relation to anonymous or pseudonymous works on the assumption that copyright in the work has expired or that the author is dead.

Infringe-  
ment of  
right to  
object  
to  
deroga-  
tory  
treat-  
ment of  
work.

37.- (1) The right conferred on an author or a director by section 15 to object to derogatory treatment of his work is infringed where the acts described in subsections (2) to (5) are done in relation to that work; and for the purposes of this Part, "derogatory treatment" has the same meaning as that specified in section 15 (4).

(2) In the case of a literary, dramatic or musical work, the right is infringed by a person who-

- (a) publishes commercially, performs in public, broadcasts or includes in a cable programme service, a derogatory treatment of the work;  
or
- (b) issues to the public copies of a film or sound recording of or including a derogatory treatment of the work.

(3) In the case of an artistic work, the right is infringed by a person who-

- (a) publishes commercially or exhibits in public a derogatory treatment of the work, or broadcasts or includes in a cable programme service a visual image of a derogatory treatment of the work;
- (b) shows in public a film including a visual image of a derogatory treatment of the work or issues to the public copies of such a film; or
- (c) in the case of a work of architecture in the form of a model for a building or in the case of a sculpture or work of artistic craftsmanship, issues to the public copies of a graphic work representing, or of a photograph of, a derogatory treatment of the work.

(4) Subsection (3) does not apply to a work of architecture in the form of a building; but where the author of such a work is identified on the building and it is the subject of derogatory treatment, he has the right to require the identification to be removed

- (5) In the case of a film, the right is infringed by a person who-
- (a) shows in public, broadcasts or includes in a cable programme service a derogatory treatment of the film; or
  - (b) issues to the public copies of a derogatory treatment of the film, or who, along with the film, plays in public, broadcasts or includes in a cable programme service, or issues to the public copies of, a derogatory treatment of the film sound-track.

Infringe-  
ment by  
possession of  
infringing  
article.

38.-(1) The right conferred by section 15 is also infringed by a person who-

- (a) possesses in the course of a business;
- (b) sells or lets for hire or offers or exposes for sale or hire;
- (c) in the course of a business, exhibits in public or distributes; ~~or~~
- (d) distributes otherwise than in the course of a business, so as to affect prejudicially the honour or reputation of the author or director,

an article which is, and which he knows or has reason to believe is an infringing article.

(2) An "infringing article" means a work or a copy of a work which-

- (a) has been subjected to derogatory treatment as defined in section 15; and
- (b) has been or is likely to be the subject of any of the acts mentioned and in this section in section 37 in circumstances infringing that right.

Act not  
infringing  
section  
15.

39.- (1) The right conferred by section 15 is not infringed by any act done for the purpose of-

- (a) avoiding the commission of an offence; or
- (b) complying with a duty imposed by or under an enactment,

so, however, that where the author or director is identified at the time of the relevant act or has previously been identified in or on published copies of the work, there shall be a sufficient disclaimer.

(2) In subsection (1) "sufficient disclaimer" means a clear and reasonably prominent indication-

- (a) given at the time of the act; and

- (b) if the author or director is then identified, appearing along with the identification,

that the work has been subjected to treatment to which the author or director has not consented.

False  
attribu-  
tion of  
work;  
infringe-  
ment of  
right.

40. (1) Subject to the provisions of this section, the right conferred on a person by section 16 not to have a literary, dramatic, musical or artistic work falsely attributed to him as author or a film falsely attributed to him as director, is infringed by a person who-

- (a) issues to the public copies of a work of any of such work in or on which there is a false attribution;
- (b) exhibits in public an artistic work or a copy of an artistic work in or on which there is a false attribution.

(2) The right is also infringed by a person who-

- (a) in the case of a literary, dramatic or musical work, performs the work in public, broadcasts it or includes it in a cable programme service as being the work of a person; or
- (b) in the case of a film, shows it in public, broadcasts it or includes it in a cable programme service as being directed by a person,

knowing or having reason to believe that the attribution is false.

(3) The right is also infringed by any person who issues to the public or displays in public any material containing a false attribution in connection with any act referred to in subsection (1) or (2).

(4) The right is also infringed by a person who, in the course of a business-

- (a) possesses or deals with a copy of a work referred to in subsection (1) in or on which there is a false attribution; or

- (b) in the case of an artistic work, possesses or deals with the work itself when there is a false attribution in or on it,

knowing or having reason to believe that there is an attribution and that it is false.

(5) In the case of an artistic work, the right is also infringed by a person who in the course of a business-

- (a) deals with a work which has been altered after the author parted with possession of it as being the unaltered work of the author; or  
(b) deals with a copy of such a work as being a copy of the unaltered work of the author,

knowing or having reason to believe that such is not the case.

(6) References in this section to "deals" are to "sells" "or lets" for hire, "offers" or "exposes" for sale or hire, "exhibits" in public or "distributes".

(7) This section applies where a work is falsely represented as being an adaptation of the work of a person as it applies where the work is falsely attributed to a person as author.

Infringe-  
ment of  
privacy  
right in  
photo-  
graphs etc.

41. The right conferred by section 17 in relation to a commissioned photograph or film is infringed by a person who does or authorizes the doing of any act mentioned in that section in relation to that work; but the right is not infringed by any act which, pursuant to Part VI, would not infringe copyright in the work.

Effect of  
consent and  
waiver  
of rights.

42. It is not an infringement of any right conferred by section 14, 15, 16 or 17 to do any act to which the person entitled to the right has consented pursuant to section 19 or in respect of which he has given a waiver pursuant to that section.

*Remedies for Infringement of Moral Rights and Related Rights*

Remedies 43. (1) The infringement of a right conferred under section 14, 15, 16 or 17 is  
for in- actionable as a breach of duty owed to the person entitled to the right.  
fringing (2) In an action for infringement of the right conferred by section 15, the  
moral court may, if it thinks it an adequate remedy in the circumstances, grant an  
rights, injunction on terms prohibiting the doing of any act unless a disclaimer is made  
etc. on such terms and in such manner as may be approved by the court, dissociating  
the author or director from the treatment of the work.

(3) Where in any action an infringement of a right referred to in  
subsection (1) is proved or admitted, the court may order the defendant to publish  
such correction in such terms and in such manner as the court may direct.

*Presumptions*

Presump- 44. (1) In an action brought by virtue of this Part with respect to a literary,  
tions dramatic, musical or artistic work, the presumptions specified in this section shall  
where apply.  
action (2) Where a name purporting to be that of the author appeared on the  
relates work when it was made or on copies of the work as published, it shall be  
to presumed that the person whose name appeared is the author of the work and also  
literary the owner of copyright in the work, until the contrary is proved.  
works, (3) In the case of a work alleged to be a work of joint authorship,  
etc. subsection (2) applies in relation to each person alleged to be one of the authors.

(4) Where no name purporting to be that of the author appeared as  
mentioned in subsection (2) but-

(a) pursuant to section 8 (1), the work qualifies for copyright  
protection by virtue of the country of first publication; and



- (b) a name purporting to be that of the publisher appeared on the  
copies of the work as first published,

then, it shall be presumed that the person whose name appeared was the owner of  
copyright at the time of publication, until the contrary is proved.

(5) Where the author of the work is dead or where the identity of the  
author cannot be ascertained by reasonable inquiry, it shall be presumed, until the  
contrary is proved-

- (a) that the work is an original work; and  
(b) that the plaintiff's allegations as to what was the first publication  
of the work and as to the country of first publication are correct.

Presump- 45 (1) In an action brought by virtue of this Part with respect to a sound  
tions recoding, film or computer program, the presumptions specified in this section  
where shall apply.

action (2) In an action brought by virtue of this Part with respect to a sound  
relates recording, where copies of the recording as issued to the public bear a label or  
to sound other mark stating-

- record- (a) that a named person was the owner of copyright in the recording at  
ing, the date of issue of the copies; or  
film or (b) that the recording was first published in a specified year or in a  
computer named country,

pro- the label or mark shall be admissible as evidence of the facts stated and shall be  
gram. presumed to be correct until the contrary is proved.

(3) In an action brought by virtue of this Part with respect to a film, where  
copies of the film as issued to the public bear a statement -

- (a) that a named person was the author or director of the film;
- (b) that a named person was the owner of copyright in the film at the date of issue of the copies; or
- (c) that the film was first published in a specified year or in a named country,

the statement shall be admissible as evidence of the facts stated and shall be presumed to be correct until the contrary is proved.

(4) In an action brought by virtue of this Part with respect to a computer program, where copies of the program are issued to the public in electronic form bearing a statement-

- (a) that a named person was the owner of copyright in the program at the date of issue of the copies; or
- (b) that the program was first published in a named country or that copies of it were first issued to the public in electronic form in a specified year,

the statement shall be admissible as evidence of the facts stated and shall be presumed to be correct until the contrary is proved.

(5) The presumptions specified in subsections (2), (3) and (4) apply equally in an action relating to an infringement alleged to have occurred before the date on which the copies were issued to the public.

(6) In an action brought by virtue of this Part with respect to a film, where the film as shown in public, broadcast or included in a cable programme service bears a statement-

- (a) that a named person was author or director of the film; or

- (b) that a named person was the owner of copyright in the film immediately after it was made,

the statement shall be admissible as evidence of the facts stated and shall be presumed to be correct until the contrary is proved; and the presumption applies equally in an action relating to an infringement alleged to have occurred before the date on which the film was shown in public, broadcast or included in a cable programme service.

### *Offences*

Penalties in respect of dealings which infringe copyright.

46. (1) Any person who at a time when copyright in a work subsists by virtue of this Act-

- (a) makes for sale or hire;
- (b) in the course of a business sells or lets for hire, or offers or exposes for sale or hire, exhibits in public or distributes;
- (c) imports into Guyana for purposes other than his private and domestic use; or
- (d) distributes otherwise than in the course of a business to such an extent as to affect prejudicially the owner of the copyright,

any article which he knows or has reason to believe is an infringing copy of that work, commits an offence.

(2) Any person who, at the time when copyright subsists in a work by virtue of this Act, makes or has in his possession an article specifically designed or adapted for making copies of that work, knowing that it is to be used for making infringing copies for sale or hire or for use in the course of business, commits an offence.

(3) Any person who causes-

- (a) a literary, dramatic or musical work to be performed in public; or
- (b) a sound recording or film to be played, or as the case may be, shown in public (otherwise than by reception of a broadcast or cable programme) ,

knowing or having reason to believe that copyright subsists in the work and that the performance, playing or showing, as the case may be, constitutes an infringement of the copyright, commits an offence.

(4) Any person who is guilty of an offence under subsection (1) shall be liable -

- (a) on summary conviction to a fine of fifty thousand dollars and to imprisonment for two years;
- (b) on conviction on indictment to a fine of two hundred and fifty thousand dollars and to imprisonment for five years.

(5) A person guilty of an offence under this section, other than an offence under subsection (1), is liable -

- (a) on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for one year;
- (b) on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for three years.

Presump- 47. The presumptions specified in sections 44 and 45 do not apply to proceedings  
tions not for an offence under section 46, but without prejudice to their application to  
to apply. proceedings for an order under section 48.

Order to 48. (1) Subject to subsection (2), the court before which proceedings are brought  
deliver against a person for an offence under section 46 may, if it is satisfied that at the  
up in time of his arrest or charge-

criminal (a) he had in his possession, custody or control in the course of a  
proceed- business an infringing copy of a protected work; or  
ings. (b) he had in his possession, custody or control an article specifically  
designed or adapted for making copies of a particular protected  
work knowing or having reason to believe that it had been or was  
to be used to make infringing copies,

order that the infringing copy or article be delivered up to the copyright owner or  
to such other person as the court may direct.

(2) An order may be made by the court of its own motion or on the  
application of the prosecution and may be made whether or not the person is  
convicted of the offence, so, however, that the court shall not make an order-

(a) after the time specified in section 138, or  
(b) if it appears to the court unlikely that any order will be made under  
section 137.

(3) An appeal lies to the Court of Appeal from an order made under this  
section by a Magistrate's Court.

(4) A person to whom an infringing copy or other article is delivered up in  
pursuance of an order under this section shall retain it pending the making of an  
order or the decision not to make an order under section 137.

*Supplementary*

Applica- 49. For the purposes of this Part, the provisions of sections 140 and 141 shall  
tion of apply in respect of the entry and search of any premises.  
provisions  
as to  
re entry, etc.

Restrict- 50.- (1) The owner of the copyright in any published literary, dramatic or musical  
ing im- work may give notice in writing to the Comptroller of Customs -  
portation (a) that he is the owner of the copyright in the work; and  
of in- (b) that he requests the Comptroller to treat as prohibited goods  
fringing Cap. 82:01 under the Customs Act, during a period specified in the notice,  
copies. printed copies of the work which are infringing copies.

(2) The period specified in a notice given under subsection (1) shall not exceed five years and shall not extend beyond the end of the period for which the copyright may subsist.

(3) The owner of the copyright in a sound recording or film may give notice in writing to the Comptroller of Customs -

- (a) that he is the owner of the copyright in the work;
- (b) that infringing copies of the work are expected to arrive in  
Guyana at a time and a place specified in the notice; and
- (c) that he requests the Comptroller to treat the copies as prohibited goods under the Customs Act .

(4) Subject to subsection (5), where a notice has been given in accordance with this section, the importation into Guyana of goods to which the notice relates is prohibited; but notwithstanding anything contained in the

Cap.82:01 Customs Act , a person is not liable to any penalty under that Act other than forfeiture of the goods, by reason that any goods are treated as prohibited goods by virtue of this section.

(5) The importation of any article by a person for his private and domestic use is not prohibited under subsection (4).

(6) A person giving a notice under this section shall-

- (a) comply with such conditions as the Comptroller of Customs may by regulations prescribe; and
- (b) satisfy such requirements as may be so prescribed in connection with the giving of the notice, including requirements relating to—
  - (i) the form of the notice;
  - (ii) the furnishing of evidence, whether on giving notice, or on the importation of the goods, or at both such times;
  - (iii) the payment of fees in respect of the notice;
  - (iv) the giving of security in respect of any liability or expense which the Comptroller may incur in consequence of the notice by reason of the detention of any article or anything done to an article detained;
  - (v) the indemnification of the Comptroller of Customs against any such liability or expenses, whether security has been given or not; and
  - (vi) any incidental or supplementary matters,

and the regulations may make different provisions as respect different classes of case.

(7) Regulations made under subsection (6) shall be subject to negative resolution of the National Assembly,

## PART VI - EXCEPTIONS TO INFRINGEMENT OF COPYRIGHT

### *Preliminary*

- Defini- 51. For the purposes of this Part, "sufficient acknowledgment" means an  
tion of acknowledgment identifying the work in question by its title or other description  
"suffi- and identifying the author, unless-
- cient ac- (a) in the case of a published work, it is published anonymously or the  
knowledge- author has agreed or required that no acknowledgement of his  
ment". name should be made;
- (b) in the case of an unpublished work, it is not possible for a person  
to ascertain the identity of the author by reasonable inquiry.

### *General Exceptions*

- Research 52. Subject to section 54, fair dealing with a literary, dramatic, musical or  
and artistic work for the purposes of research or private study does not infringe  
private copyright in the work or, in the case of a published edition, in the typographical  
study. arrangement.
- Criticism, 53. (1) Subject to section 54-  
review (a) fair dealing with a protected work for the purposes of criticism or  
and review of that or another work or of a performance of a work; or  
report- (b) fair dealing with a protected work (other than a photograph) for  
ing. the purpose of reporting current events,
- does not infringe copyright in the work so long as it is accompanied by a  
sufficient acknowledgement.
- (2) No acknowledgement is required in connection with the reporting of  
current events by means of a sound recording, film, broadcast or cable  
programme.



Determin- 54. For the purpose of determining whether an act done in relation to a work  
ing fair constitutes fair dealing, the court determining the question shall take account of  
dealing. all factors which appear to it to be relevant, including-

- (a) the nature of the work in question;
- (b) the extent and substantiality of that part of the work affected by the  
act in relation to the whole of the work;
- (c) the purpose and character of the use; and
- (d) the effect of the act upon the potential market for, or the  
commercial value of, the work.

Incidental 55. Copyright in a work is not infringed-  
inclusion  
of protect- (a) by its incidental inclusion in an artistic work, sound recording ,  
ed work. film, broadcast or cable programme; or  
(b) by the issue to the public of copies or the playing, showing,  
broadcasting or inclusion in a cable programme service of  
anything whose making was not an infringement of copyright by  
virtue of paragraph (a),

and for the purposes of this section, a musical work, words spoken or sung with  
music, or so much of a sound recording, broadcast or cable programme as  
includes a musical work or such words, shall not be regarded as incidentally  
included if it is deliberately included.

*Use of Work for Educational Purpose*

Acts done 56. (1) Copyright in a literary, dramatic, musical or artistic work is not infringed  
for pur- by being copied in the course of instruction or of preparation for instruction,  
poses of provided the copying is done by a person giving or receiving instruction and is  
instruc- not by means of a reprographic process.

tion or (2) Copyright in a sound recording, film, broadcast or cable programme is  
examini- not infringed by its being copied by making a film or film sound-track in the  
nation. course of instruction, or of preparation for instruction, in the making of films or  
film sound-tracks, provided the copying is done by a person giving or receiving  
instruction.

(3) Copyright in a work is not infringed by anything done for the purposes  
of an examination by way of setting the questions, communicating the questions  
to candidates or answering the questions.

Antho- 57. (1) The inclusion in a collection intended for use in educational  
logies establishments of a short passage from a published literary or dramatic work does  
for edu- not infringe copyright in the work if-

- cational (a) the collection is described in the title and in any  
use. advertisements thereof issued by or on behalf of the publisher, as  
being so intended;
- (b) the work was not itself published for the use of educational  
establishments;
- (c) the collection consists mainly of material in which no copyright  
subsists; and
- (d) the inclusion is accompanied by a sufficient acknowledgement.

(2) Subsection (1) does not authorize the inclusion of more than two  
excerpts from protected works by the same author in collections published by the  
same publisher over any period of five years.

(3) In relation to any given passage, the reference in subsection (2) to  
excerpts from works by the same author-

- (a) shall be taken to include excerpts from works by him in  
collaboration with another; and

- (b) if the passage in question is from such a work, shall be taken to include excerpts from works by any of the authors, whether alone or in collaboration with another.

Record- 58. (1) Subject to subsection (2), a recording of a broadcast or cable programme  
ing of or a copy of such a recording may be made by or on behalf of an educational  
broad- establishment for the educational purposes of that establishment without thereby  
cast, etc. infringing the copyright in the broadcast or cable programme or in any work  
by edu- included in it.

cational (2) Subsection (1) shall not apply if or to the extent that there is a  
establish- licensing scheme certified pursuant to section 102 for the purposes of this section.  
ments.

Restric- 59. (1) Subject to the provisions of this section, reprographic copies of passages  
tion on from published literary, dramatic or musical works may be made by or on  
reprogra- behalf of an educational establishment for the purposes of instruction without  
phic infringing any copyright in the work or in the typographical arrangement.

copy- (2) Not more than five per cent of any work may be copied by or on behalf  
ing by of an educational establishment by virtue of this section in any quarter, that is to  
educa- say, in any period 1st January to 31st March, 1st April to 30th June, 1st July to  
tional 30th September or 1st October to 31st December.

establish- (3) Copying is not authorized by this section if, or to the extent that,  
ment. licences are available authorizing the copying in question and the person making  
the copies knew or ought to have been aware of that fact.

(4) Where a licence is granted to an educational establishment authorizing  
the reprographic copying of passages from any published literary, dramatic or  
musical work, for use by the establishment, then, any term of that licence which

purports to restrict the proportion of work which may be copied (whether on payment or free of charge) to less than that permitted under this section shall be of no effect.

Sub-sequent dealings with author-ized copies, 60. (1) Where a copy of a work would be an infringing copy if the making thereof were not authorized under section 56, 58 or 59 and such copy is subsequently dealt with, it shall be treated as an infringing copy for the purposes of that dealing and, if that dealing infringes copyright, for all subsequent purposes.

(2) In subsection (1) "dealt with" means sold, or let for hire or offered or exposed for sale or hire.

*Exceptions affecting Libraries and Archives*

Interpre-tation of re-ferences; regula-tions. 61. (1) In sections 62 to 65 references to the librarian or archivist include references to a person acting on his behalf.

(2) Regulations may provide that a librarian or archivist who is, pursuant to sections 62 and 65, required to be satisfied as to a matter before making or supplying a copy of a work-

(a) is entitled to rely on a declaration as to that matter, signed by the person requesting the copy, unless he is aware that the declaration is false in any material particular;

(b) in such cases as may be prescribed, shall not make or supply a copy to any person in the absence of a declaration by that person.

(3) Where a person requesting a copy makes a declaration that is false in a material particular and is supplied with a copy which would have been an infringing copy if made by him, that person shall be liable for infringement of copyright as if he had made the copy himself, and the copy supplied shall be treated as an infringing copy.

Supply by  
librarian  
of copies  
of pub-  
lished  
work.

62. (1) The librarian of a prescribed library or archive may, if the prescribed conditions are complied with-

- (a) make and supply a copy of an article in a periodical; or
- (b) make and supply from a published edition, a copy of part of a literary, dramatic or musical work, not being an article in a periodical,

without infringing any copyright subsisting in the text of the article or in the work, as the case may be, or in any illustrations accompanying such article or work, or in the typographical arrangement thereof.

(2) The conditions prescribed pursuant to subsection (1) shall include the following-

- (a) that copies shall be supplied only to persons satisfying the librarian that they require them for purposes of research or private study, and will not use them for any other purpose;
- (b) in relation to an article, that no person shall be furnished with more than one copy of the same article or with copies of more than one article contained in the same issue of a periodical;
- (c) in relation to a work referred to in paragraph (b) of subsection (1), that no person shall be furnished with more than one copy of the same material or of a copy of more than a reasonable proportion of any work; and
- (d) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library or archive) attributable to their production.

Supply of 63.-(1) The librarian of a prescribed library or archive may, if the prescribed  
copies to conditions are complied with, make and supply to another prescribed library or  
other archive a copy of-  
libraries.

- (a) an article in a periodical; or
- (b) the whole or part of a published edition of a literary, dramatic or musical work,

without infringing any copyright in the text of the article or the work, or in any illustrations accompanying such article or work or, in the case of a published edition, in the typographical arrangement.

(2) Paragraph (b) of subsection (1) shall not apply if, at the time the copy is made, the librarian making it knows or could, by reasonable inquiry, ascertain the name and address of a person entitled to authorize the making of the copy.

Replac- 64.-(1) The librarian of <sup>the</sup> prescribed library or archive may, if the prescribed  
ing copies conditions are complied with, make a copy from any item in the permanent  
of works. collection of the library or archive for the purpose of-

- (a) preserving or replacing the item by placing the copy in such permanent collection in addition to or in place of the item;
- (b) replacing in the permanent collection of another prescribed library or archive an item which has been lost, destroyed or damaged,

without infringing the copyright in any literary, dramatic or musical work, in any illustrations accompanying such a work or, in the case of a published edition, in the typographical arrangement.

(2) The prescribed conditions shall include provisions restricting the making of copies to cases where it is not reasonably practicable to purchase a copy of the item in question for the purpose.

Copying of unpublished work. 65.- (1) Subject to subsection (2), the librarian of a prescribed library or archive may, if the prescribed conditions are complied with, make and supply a copy of the whole or part of a literary, dramatic or musical work from a document in the library or archive without infringing any copyright in the work or in any illustrations accompanying it.

(2) Subsection (1) shall not apply where-

- (a) the work had been published before the document was deposited in the library or archive; or
  - (b) the copyright owner has prohibited copying of the work,
- and at the time of the making of the copy the librarian ought to have been aware of that fact.

(3) The prescribed conditions shall include the following-

- (a) that copies are supplied only to persons satisfying the librarian that they require them for purposes of research or private study and will not use them for any other purpose;
- (b) that no person is furnished with any more than one copy of the same material; and
- (c) that persons to whom copies are supplied are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library or archive) attributable to their production.

*Exceptions Relating to Public Administration*

Parliament- 66.-(1) Copyright in a work is not infringed by anything done for the purposes of  
ary and parliamentary or judicial proceedings or, subject to subsection (3), for the  
judicial purposes of reporting such proceedings.

proceed- (2) Copyright in a work is not infringed by anything done for the purposes  
ings etc. of the proceedings of a statutory inquiry or, subject to subsection (3), for the  
purposes of reporting any such proceedings held in public.

(3) The provisions of subsections (1) and (2) relating to the reporting of  
proceedings shall not be construed as authorizing the copying of a work which is  
itself a published report of the proceedings.

(4) Copyright in a work is not infringed by the issue to the public of  
copies of the report of a statutory inquiry containing the work or material from it.

(5) In this section, "statutory inquiry" means an inquiry held or  
investigation conducted in pursuance of a duty imposed or power conferred by or  
under an enactment.

Public 67. Where any protected work or a reproduction of any such work is comprised in  
records. any public record pursuant to any enactment which is, by virtue of that enactment  
open to public inspection, the copyright in the work is not infringed by the making  
or supplying  
to any person of any copy of the work by or under the direction of any officer  
appointed under the enactment.

*Designs*

Design 68.-(1) It is not an infringement of any copyright in a design document or in a  
docu- model that records or embodies a design for anything (except an artistic work or a  
ments typeface) to make an article to the design or to copy an article made to the design.

and (2) It is not an infringement of any copyright to issue to the public or to  
models. include in a film, broadcast or cable programme service anything the making of



which was, by virtue of subsection (1), not an infringement of that copyright.

(3) In this section-

"design" means the design of any aspect of the shape or configuration (whether internal or external) of the whole or part of an article, other than surface decoration; and

"design document" means any record of a design, whether in the form of a drawing, a written description, a photograph, data stored in a computer, or otherwise.

Where design derived from artistic work is exploited.

69.- (1) Where an artistic work has been exploited by or with the licence of the copyright owner by-

(a) making by an industrial process articles falling to be treated under this Act as copies of the work, and

(b) marketing such articles in Guyana or elsewhere,

then, after the end of the period of twenty-five years from the end of the calendar year in which such articles are first marketed, a person may, without infringing copyright in the work, copy the work by making articles of any description or by doing anything for the purpose of making articles of any description, or by doing anything in relation to articles so made.

(2) Where only part of an artistic work is exploited in the manner described in subsection (1), then, the provisions of that subsection apply only in relation to that part.

(3) The Minister may by order make provision-

- (a) as to the circumstances in which an article or any description of article is to be regarded for the purposes of this section as made by an industrial process;
- (b) excluding from the operation of this section such articles of a primarily literary or artistic character as he thinks fit

(4) In this section-

- (a) references to articles do not include films; and
- (b) references to the marketing of an article are references to its being sold or let for hire or offered or exposed for sale or hire.

*Exception Relating to Works in Electronic Form*

Transfer of works in electronic form. 70.-(1) Where a work in electronic form has been purchased on terms which, expressly or impliedly or by virtue of any rule of law, allow the purchaser to copy the work or to adapt it or to make copies of an adaptation in connection with his use of it, then, in the absence of any express terms-

- (a) prohibiting the transfer of the copy by the purchaser, imposing obligations which continue after a transfer or prohibiting the assignment of any licence or terminating any licence on a transfer; or
- (b) providing for the terms on which a transferee may do the things which the purchaser was permitted to do,

anything which the purchaser was allowed to do may also be done by a transferee without infringement of copyright.

(2) Any copy, adaptation or copy of an adaptation made by the purchaser which is not also transferred after the transfer, shall be treated as an infringing copy for all purposes.

(3) Subsections (1) and (2) apply where the original purchased copy is no longer usable and what is transferred is a further copy used in its place.

(4) This section applies also on a subsequent transfer, with the substitution for references in subsection (2) to the purchaser of references to the subsequent transferor.

*Miscellaneous Exceptions Relating to Literary,  
Dramatic, Musical and Artistic Works*

Anony- 71.-(1) Copyright in a literary, dramatic musical or artistic work is not infringed  
mous by an act done at a time when, or in pursuance of an arrangement made at a time  
and. when-

pseudo- (a) it is not possible by reasonable inquiry to ascertain the identity of  
nymous the author; and

literary, etc. (b) it is reasonable to assume-

works. (i) that the copyright has expired; or

(ii) that the author died fifty years or more before the  
beginning of the calendar year in which the act is done or  
the arrangements are made.

(2) Subsection (1) (b) (ii) does not apply in relation to a work in which  
copyright originally vested in an international organization by virtue of section  
146 and in respect of which an order under that section specifies a copyright  
period longer than fifty years.

(3) In relation to a work of joint authorship-

(a) the reference in subsection (1) to its being possible to ascertain the  
identity of the author shall be construed as a reference to its being  
possible to ascertain the identity of any of the authors; and

(b) the reference in subsection (1) (b) (ii) to the author having died  
shall be construed as a reference to all the authors having died.

Use of 72.-(1) Where a record of spoken words is made, in writing or otherwise, for the  
notes of purpose of-

record- (a) reporting current events; or

ings of (b) broadcasting or including in a cable programme service the whole  
spoken or part of the work,

word. it is not an infringement of any copyright in the words as a literary work to use  
the record or material taken from it (or to copy the record or any such material  
and use the copy) for that purpose, providing the conditions specified in  
subsection (2) are met.

(2) The conditions referred to in subsection (1) are that-

- (a) the record is a direct record of the spoken words and is not taken  
from a previous record or from a broadcast or cable programme;
- (b) the making of the record was not prohibited by the speaker and,  
where copyright already subsisted in the work, did not infringe  
copyright;
- (c) the use made of the record or material taken from it is not of a  
kind prohibited by or on behalf of the speaker or copyright owner  
before the record was made; and
- (d) the use is by or with the authority of a person who is lawfully in  
possession of the record.

Reading 73.-(1) The reading or recitation in public of any reasonable extract from a  
or recita- published literary or dramatic work is not an infringement of copyright in the  
tion in work, if accompanied by a sufficient acknowledgement.

public. (2) Copyright in a work is not infringed by the making of a sound  
recording, or the broadcasting or inclusion in a cable programme service, or a  
reading or recitation which, by virtue of subsection (1), does not infringe  
copyright in the work.

- Representation of artistic works on public display
- 74- (1) This section applies to-
- (a) buildings;
  - (b) sculptures, models of buildings and works of artistic craftsmanship, if permanently situated in a public place or in premises open to the public.
- (2) The copyright in such a work is not infringed by-
- (a) making a graphic work representing it;
  - (b) making a photograph or film of it; or
  - (c) broadcasting or including in a cable programme service a visual image of it.
- (3) The copyright of such a work is not infringed by the issue to the public of copies, or the broadcasting or inclusion in a cable programme service, of anything whose making was, by virtue of this section, not an infringement of copyright.
- Reconstruction of buildings.
75. Anything done for the purposes of reconstructing a building does not infringe any copyright in the building or in any drawings or plans in accordance with which the building was constructed by or with the licence of the copyright owner.
- Subsequent work by same artist.
76. Where the author of an artistic work is not the copyright owner, he does not infringe the copyright in the work by copying it in making another artistic work, provided he does not repeat or imitate the main design of the earlier work.

*Miscellaneous Exceptions Relating to Sound Recordings,*

*Films and Computer Programs*

Making , 77.- (1) Where sound recordings of a musical work (and accompanying words, if  
etc. of any) have, with the licence or consent of the owner of the copyright in the work,  
record- been previously made in or imported into Guyana for the purposes of  
ings of retail sale, then, any person may, after the expiry of the period of four months  
musical immediately following upon the date of the first authorized manufacture in, or  
work importation into, Guyana of such recordings, and without first obtaining  
previous the consent or licence of the owner of the copyright in the work, make or  
ly made authorize the making of sound recordings of it if such person-  
or im- (a) intends to sell the recordings by retail, or to supply them for the  
ported. purpose of being sold by retail by another person, or intends to use  
them for making other sound recordings which are to be so sold or  
supplied;  
(b) pays royalties calculated at the prescribed rate; and  
(c) complies with such conditions relating to notice, method and time  
of payment, administration of royalties paid and other matters, as  
may be prescribed.

(2) Any person who makes or authorizes the making of sound recordings  
pursuant to subsection (1) shall not make or authorize the making of any  
alterations in, or omissions from, the work unless sound recordings of that work  
containing similar alterations or omissions have been previously made by or with  
the licence or consent of the owner of the copyright or unless such alterations or  
omissions are reasonably necessary for the adaptation of the work to the sound  
recording in question.

Rental of  
sound  
record-  
ings, etc.

of the National Assembly

78.-(1) The Minister may by order, subject to negative resolution, provide that in such cases as may be specified in the order, the rental to the public of copies of sound recordings, films or computer programs shall be treated as licensed by the copyright owner subject only to the payment of such reasonable royalty or other payment as may be agreed or determined in default of agreement by the Copyright Tribunal.

(2) An order under subsection (1) shall not apply if, or to the extent that, there is a licensing scheme certified under section 102 for the purposes of this section providing for the grant of licences.

(3) An order may make different provision for different cases and may specify cases by reference to any factor relating to the work, the copies rented, the person renting or the circumstances of the rental.

(4) Copyright in a computer program is not infringed by the rental of copies to the public after the end of the period of fifty years from the end of the calendar year in which copies of it were first issued to the public in electronic form.

(5) Nothing in this section affects any liability under section 31 in respect of the rental of infringing copies.

Playing  
of  
sound  
record-  
ing for  
purposes

79. It is not an infringement of the copyright in a sound recording to play it as part of the activities of, or for the benefit of, a club, society or other organization if-

(a) the organization is not established or conducted for profit and its objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare; and

of charit- (b) the proceeds of any charge for admission to the place where the  
able organi- recording is to be heard are applied solely for the purposes of the  
zation. organization.

*Miscellaneous Exceptions Respecting Broadcasts  
and Cable Programmes*

Incident- 80.-(1) This section applies where by virtue of a licence or assignment of  
al record- copyright a person is authorized to broadcast from a place in Guyana or  
ing for a specified country or to include in a cable programme service sent from  
purposes Guyana or a specified country-  
of (a) a literary, dramatic or musical work, or an adaptation of such a  
broad- work;  
cast or (b) an artistic work; or  
cable (c) a sound recording or film.  
pro- (2) The person referred to in subsection (1) shall, by virtue of this section,  
gramme. be treated as licensed by the owner of the copyright in the work to do or authorize  
any of the following for the purposes of the broadcast or cable programme-  
(a) in the case of a literary, dramatic or musical work or an adaptation  
of such a work, to make a sound recording or film of the work or  
adaptation;  
(b) in the case of an artistic work, to take a photograph or make a  
film of the work;  
(c) in the case of a sound recording or film, to make a copy of it.  
(3) A licence under subsection (2) is subject to the following conditions-  
(a) the recording, film, photograph or copy in question shall not be  
used for any other purpose; and



- (b) such recording, film, photograph or copy shall be destroyed within twenty-eight days of being first used for broadcasting the work or, as the case may be, including it in a cable programme service.

(4) A recording, film, photograph or copy made in accordance with this section shall be treated as an infringing copy-

- (a) for the purposes of any use in breach of the condition mentioned in subsection (3) (a); and
- (b) for all purposes after that condition or the condition mentioned in subsection (3) (b) is breached.

Recordings of broadcasts for programme control. 81. Copyright is not infringed by the making or use by a prescribed broadcasting organization, for the purpose of maintaining supervision and control over programmes and advertisements broadcast by that organization, of recordings of those programmes and advertisements.

(2) Copyright is not infringed by the making or use by the Guyana Broadcasting Corporation of recordings of programmes in connection with and for the purpose of carrying out its functions.

Recording for archival purposes. 82.-(1) A recording of a broadcast or cable programme of a designated class, or a copy of such a recording, may be made for the purpose of being placed in an archive maintained by a designated body without thereby infringing any copyright in the broadcast or cable programme or in any work included in it.

(2) In subsection (1) "designated" means designated by the Minister, who shall not designate a body unless he is satisfied that it is not established or conducted for profit.

Reception and re- 83. Where a literary, dramatic or musical work or film is broadcast with the licence of the copyright owner from a place in Guyana or a specified

trans- country, any person may, without obtaining the licence of the copyright owner,  
mission incorporate the work (by means of the reception of the broadcast) in a cable  
of programme service:

broadcast Provided that-

- in cable (a) the transmission by the cable programme service takes place  
programme simultaneously with the reception of the broadcast; and  
service. (b) the programme in which the literary, dramatic or musical work or  
film is incorporated is transmitted without alteration of any kind;  
and  
(c) the copyright owner shall be entitled to receive from the person  
providing the cable programme service, equitable remuneration in  
respect of the transmission, to be fixed in default of agreement by  
the Tribunal,

and, for the purposes of this section, an alteration to a programme includes  
the addition thereto of new material not contained in the programme as broadcast,  
or the omission from the transmission of any material contained in the  
programme as broadcast; and the term "material" includes a commercial  
advertisement.

Recording 84. The making for private and domestic use of a recording of a broadcast or  
for pur- cable programme solely for the purpose of enabling it to be viewed or listened to  
pose of at a more convenient time does not infringe any copyright in the broadcast or  
time- cable programme or in any work included in it.  
shifting.

*Adaptations*

Adapta- 85. An act which by virtue of this Part may be done without infringing copyright  
tions. in a literary, dramatic or musical work does not, where that work is an adaptation,  
infringe any copyright in the work from which the adaptation was made.

*Prescribed Exceptions*

Power of 86.-(1) Subject to the provisions of this section, the Minister may, by  
Minister of the National Assembly  
order subject to negative resolution, provide that the copyright in a work of the  
to pre- description or category specified in the order is not infringed where, in relation to  
scribe such work, such acts as are specified in the order are done in the circumstances so  
excep- specified.

tions (2) The Minister shall not make an order under subsection (1) unless he is  
to satisfied that the acts specified in the order in relation to the work-

infringe- (a) are necessary in the public interest in connection with an event of  
ment. national importance;

(b) would not conflict with the normal exploitation of the work; and

(c) would not unreasonably prejudice the legitimate interest of the  
owner of the copyright in the work.

(3) An order made under subsection (1) shall make provision for the  
payment of equitable remuneration to the copyright owner to be determined, in  
default of agreement, by the Copyright Tribunal; and such order may contain such  
consequential, supplemental or ancillary provisions as appear to the Minister to  
be necessary or expedient for the purpose of giving effect to the order.

## PART VII - COPYRIGHT LICENSING

### *Preliminary*

- Interpre- 87.- (1) In this Part-
- tation "licence" means any licence that is issued or offered by a licensing body
- for pur- authorizing, in relation to works in which copyright subsists, the doing of
- poses of any of the acts restricted by copyright;
- Part. "licensing body" means a society or other organization which has as its main
- object or one of its main objects, the negotiation or granting, either as owner or
- prospective owner of copyright or as agent for him, of licences, and whose
- objects include the granting of licences covering works of more than one
- author;
- "licensing scheme" means a scheme setting out-
- (a) the classes of cases in which the operator of the scheme, or the person on whose behalf he acts, is willing to grant licences; and
  - (b) the terms on which licences would be granted in those classes of cases;
- and for this purpose a "scheme" includes anything in the nature of a scheme, whether described as a scheme or as a tariff or by any other name.
- (2) References in this Part to licences or licensing schemes covering works of more than one author do not include licences or schemes covering only-
- (a) a single collective work or collective works of which the authors are the same; or
  - (b) works made by, or by employees commissioned by, a single individual, firm, company or group of companies.
- (3) For the purpose of subsection (2) "group" in relation to a company means that company and-

- (a) any other company which is its holding company or subsidiary;
- (b) any other company which is a subsidiary of the holding company;
- (c) any company which directly or indirectly controls or is controlled by any company referred to in paragraph (a) or (b); and
- (d) any company which is controlled by a person who directly or indirectly controls a company referred to in paragraph (a), (b) or (c).

Licensing schemes      88. The provisions of sections 89 to 94 apply to licensing schemes of the following descriptions-

- to which sections 89 to 94 apply.
- (a) licensing schemes operated by licensing bodies in relation to the copyright in literary, dramatic, musical or artistic works or films (or film sound-tracks when accompanying a film) which cover works of more than one author, so far as they relate to licences for-
    - (i) copying the work;
    - (ii) performing, playing or showing the work in public; or
    - (iii) broadcasting the work or including it in a cable programme service;
  - (b) all licensing schemes in relation to the copyright in sound recordings (other than film sound-tracks when accompanying a film), broadcasts or cable programmes or the typographical arrangement of published editions; and
  - (c) all licensing schemes in relation to the copyright in sound recordings, films or computer programs so far as they relate to licences for the rental of copies to the public.

*References and Applications Respecting Licensing Schemes*

Reference 89.-(1) The terms of a licensing scheme which a licensing body proposes to  
of pro- operate may be referred to the Copyright Tribunal by an organization claiming to  
posed be representative of persons claiming that they require licences in cases of a  
licens- description to which the scheme would apply, either generally or in relation to  
ing any description of case.

scheme. (2) The Tribunal shall first decide whether to entertain the reference and  
decline to do so on the ground that the reference is premature.

(3) Where the Tribunal decides to entertain the reference it shall consider  
the matter referred and make such order, either confirming or varying the  
proposed scheme either generally or so far only as it relates to cases of the  
description to which the reference relates, as the Tribunal thinks reasonable in the  
circumstances.

(4) An order may be made under subsection (3) so as to be in force  
indefinitely or for such period as the Tribunal may determine.

Reference 90.- (1) Where during the operation of a licensing scheme a dispute arises  
of exist- between the operator of the scheme and-

ing (a) the person claiming that he requires a licence in a case of a  
licens- description to which the scheme applies; or

ing (b) an organization claiming to be representative of such persons,  
scheme. that person or organization may refer the scheme to the Copyright  
Tribunal in so far as it relates to cases of that description.

(2) A scheme which has been referred to the Tribunal under this section  
shall remain in operation until proceedings on the reference are concluded.

(3) The Tribunal shall consider the matter in dispute and make such order, either confirming or varying the scheme so far only as it relates to cases of the description to which the reference relates, as the Tribunal may determine to be reasonable in the circumstances.

(4) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

Further  
refer-  
ence

91.-(1) Where the Copyright Tribunal has on a previous reference of a licensing scheme under section 89 or 90, or under this section, made an order with respect to the scheme then, while the order remains in force-

of

(a) the operator of the scheme;

scheme.

(b) a person claiming that he requires a licence in a case of the description to which the order applies; or

(c) an organization claiming to be representative of such persons,

may refer the scheme again to the Tribunal so far as it relates to cases of that description.

(2) A licensing scheme shall not, except with the special leave of the Tribunal, be referred again to the Tribunal in respect of the same description of cases-

(a) within twelve months from the date of the order on the previous reference; or

(b) if the order was made so as to be in force for fifteen months or less, until the last three months before the expiry of the order.

(3) A scheme which has been referred to the Tribunal under this section shall remain in operation until proceedings on the reference are concluded.

(4) The Tribunal shall consider the matter in dispute and make such order, either confirming, varying or further varying the scheme so far only as it relates to

cases of the description to which the reference relates, as the Tribunal may determine to be reasonable in the circumstances.

(5) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

Applica- 92.-(1) A person who claims, in a case covered by a licensing scheme, that the  
tion for operator of the scheme has refused to grant him or procure the grant to him of a  
grant of licence in accordance with the scheme, or has failed to do so within a reasonable  
licence time after being asked, may apply to the Copyright Tribunal.  
in (2) A person who claims, in a case excluded from a licensing scheme, that  
connec- the operator of the scheme either-  
tion (a) has refused to grant him a licence or procure the grant to him  
with of a licence, or has failed to do so within a reasonable time of  
licens- being asked, and that in the circumstances it is unreasonable that a  
ing should not be granted; or  
scheme. (b) proposes terms for a licence which are unreasonable,  
may apply to the Copyright Tribunal.

(3) A case shall be regarded as excluded from a licensing scheme for the purposes of subsection (2) if-

- (a) the scheme provides for the grant of licences subject to terms excepting matters from the licence and the case falls within such an exception; or
- (b) the case is so similar to those in which licences are granted under the scheme that it is unreasonable that it should not be dealt with in the same way.



(4) If the Tribunal is satisfied that the claim is well-founded, it shall make an order declaring that, in respect of the matters specified in the order, the applicant is entitled to a licence on such terms as the Tribunal may determine to be applicable in accordance with the scheme or, as the case may be, to be reasonable in the circumstances.

(5) The order may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

Appli- 93.-(1) Where the Copyright Tribunal has made an order under section 92 that a  
cation person is entitled to a licence under a licensing scheme, the operator of the  
for scheme or the original applicant may apply to the Tribunal to review its order.

review (2) An application shall not be made, except with the special leave of the  
as to Tribunal-

entitle- (a) within twelve months from the date of the order or of the decision  
ment to on a previous application under this section; or

licence. (b) if the order was made so as to be in force for fifteen months or less  
or, as a result of the decision on a previous application under this  
section, is due to expire within fifteen months of that decision,  
until the last three months before the expiry date.

(3) The Tribunal shall on an application for review confirm or vary its order as the Tribunal may determine to be reasonable having regard to the terms applicable in accordance with the licensing scheme or, as the case may be, the circumstances of the case.

Effect of 94.-(1) A licensing scheme which has been confirmed or varied by the Copyright  
order of Tribunal under section 89 or 90 shall be in force, or as the case may be, remain in

Tribunal operation so far as it relates to the description of case in respect of which the  
as to order is made, so long as the order remains in force.

licensing (2) While the order is in force a person who in a case of a class to which  
scheme. the order applies-

- (a) pays to the operator of the scheme any charges payable under the scheme in respect of a licence covering the case in question or, if the amount cannot be ascertained, gives an undertaking to the operator to pay them when ascertained; and
- (b) complies with the other terms applicable to such a licence under the scheme,

shall be in the same position as regards infringement of copyright as if he had at all material times been the holder of a licence granted by the owner of the copyright in question in accordance with the scheme.

(3) The Tribunal may direct that the order, so far as it varies the amount of charges payable, shall have effect from a date before that on which it is made, not being a date earlier than the date on which the reference was made or, where the scheme came into operation after the reference was made, not being a date earlier than the date on which the scheme came into operation; but no such direction may be made where subsection (5) applies.

(4) If a direction is made under subsection (3)-

- (a) any necessary repayments, or further payments, shall be made in respect of charges already paid; and
- (b) the reference in paragraph (a) of subsection (2) to the charges payable under the scheme shall be construed as a reference to the charges so payable by virtue of the order.

(5) An order of the Tribunal under section 89 or 90 made with respect to a scheme which is certified for any purpose under section 102 has effect, so far as it varies the scheme by reducing the charge payable for licences, from the date on which the reference was made to the Tribunal.

(6) Where the Tribunal has made an order under section 92 and the order remains in force, the person in whose favour the order is made shall, if he satisfies the conditions specified in subsection (7), be in the same position as regards infringement of copyright as if he had at all material times been the holder of a licence granted by the owner of the copyright in question on the terms specified in the order.

(7) The conditions referred to in subsection (6) are that the person mentioned in that subsection shall-

- (a) pay to the operator of the scheme any charges payable in accordance with the order or, if the amount cannot be ascertained, give an undertaking to pay the charges when ascertained; and
- (b) comply with the other terms specified in the order.

*References and Applications Respecting Licences  
and Licensing Bodies*

Licences to which sections 96 to 99 apply.	95. Sections 96 to 99 apply to the following descriptions of licence granted by a licensing body otherwise than in pursuance of a licensing scheme-
	(a) licences relating to the copyright in literary, dramatic, musical or artistic works or films (or film sound-tracks when accompanying a film) which cover works of more than one author, so far as they authorize-

- (i) copying the work;
  - (ii) performing, playing or showing the work in public; or
  - (iii) broadcasting the work or including it in a cable programme service;
- (b) any licence relating to the copyright in a sound recording (other than a film sound-track when accompanying a film), broadcast or cable programme, or the typographical arrangement of a published edition; and
- (c) all licences in relation to the copyright in sound recordings, films or computer programs so far as they relate to the rental of copies to the public.

Refer- 96.- (1) The terms on which a licensing body proposes to grant a licence may be  
ence to referred to the Copyright Tribunal by the prospective licensee.

Tribunal (2) The Tribunal shall first decide whether to entertain the reference, and  
of pro- may decline to do so on the ground that the reference is premature.

posed (3) If the Tribunal decides to entertain the reference it shall consider the  
licence. terms of the proposed licence and make such order, either confirming or varying  
the terms, as it may determine to be reasonable in the circumstances.

(4) The order may be made so as to be in force indefinitely or for such  
period as the Tribunal may determine.

Refer- 97.- (1) A licensee under a licence which is due to expire by effluxion of time or  
ence to as a result of notice given by the licensing body, may apply to the Copyright  
Tribunal on the ground that it is unreasonable in the circumstances that the  
of expir- licence should cease to be in force.

ing (2) Such an application may not be made until the last three months  
licence. before the licence is due to expire.

(3) A licence in respect of which a reference has been made to the Tribunal shall remain in operation until proceedings on the reference are concluded.

(4) If the Tribunal finds the application well-founded, it shall make an order declaring that the licensee shall continue to be entitled to the benefit of the licence on such terms as the Tribunal may determine to be reasonable in the circumstances.

(5) An order of the Tribunal under this section may be made so as to be in force indefinitely or for such period as the Tribunal may determine.

Tribunal 98.- (1) Where the Copyright Tribunal has made an order under section 96 or 97,  
may the licensing body or the person entitled to the benefit of the order may apply to  
review the Tribunal to review its order.

order (2) An application shall not be made, except with the special leave of the  
as to Tribunal-

licence. (a) within twelve months from the date of the order or of the decision  
on a previous application under this section; or  
(b) if the order was made so as to be in force for fifteen months or  
less or, as a result of the decision on a previous application under  
this section, is due to expire within fifteen months of that decision,  
until the last three months before the expiry date.

(3) The Tribunal shall on an application for review confirm or vary its order as the Tribunal may determine to be reasonable in the circumstances.

Effect of 99.-(1) Where the Copyright Tribunal has made an order under section 96 or 97  
order of and the order remains in force, the person entitled to the benefit of the order shall,  
Tribunal if he satisfies the conditions specified in subsection (2), be in the same position as  
as to regards infringement of copyright as if he had at all material times been the

licence. holder of a licence granted by the owner of the copyright in question on the terms specified in the order.

(2) The conditions referred to in subsection (1) are that the person-mentioned in that subsection shall-

- (a) pay to the licensing body any charges payable in accordance with the order or, if the amount cannot be ascertained, give an undertaking to pay the charges when ascertained; and
- (b) comply with the other terms specified in the order.

(3) The benefit of the order may be assigned-

- (a) in the case of an order under section 96, if assignment is not prohibited under the terms of the Tribunal's order; and
- (b) in the case of an order under section 97, if assignment was not prohibited under the terms of the original licence.

(4) The Tribunal may direct that an order under section 96 or 97, or an order under section 98 varying such an order, so far as it varies the amount of charges payable, shall have effect from a date before that on which it was made, not being a date earlier than the date on which the reference or application was made or, where a licence was granted or was due to expire after the reference was made, not being a date earlier than the date on which the licence was granted or, as the case may be, was due to expire.

(5) If such a direction is made-

- (a) any necessary repayments or further payments, shall be made in respect of charges already paid; and

- (b) the reference in paragraph (a) of subsection (2) to the charges payable in accordance with the order shall be construed, where the order is varied by a later order, as a reference to the charges so payable by virtue of the later order.

*Supplementary*

Matters to be prescribed for Tribunal.	100. Regulations made under section 150 may prescribe the matters which the Copyright Tribunal shall take into account on a reference or application made under this Part in respect of any class or classes of case.
Royalty payable for rental of sound record- ings, etc.	<p>101.- (1) An application to settle the royalty or other sum payable in pursuance of section 78 may be made to the Copyright Tribunal by the copyright owner or the person claiming to be treated as licensed by him.</p> <p>(2) The Tribunal shall consider the matter and make such order as it may determine to be reasonable in the circumstances.</p> <p>(3) Either party may subsequently apply to the Tribunal to vary the order and the Tribunal shall consider the matter and make such order confirming or varying the original order as it may determine to be reasonable in the circumstances.</p> <p>(4) An application under subsection (3) shall not, except with the special leave of the Tribunal, be made within twelve months from the date of the original order or of the order on a previous application under that subsection.</p> <p>(5) An order under subsection (3) has effect from the date on which it is made or such later date as may be specified by the Tribunal.</p>

Minis- 102.-(1) On the application of any person operating or proposing to operate a  
terial and  
licensing scheme for the purposes of sections 58/78 and such other provisions as  
order may be prescribed, the Minister shall by order certify the scheme if he is satisfied  
in rela- that it-  
tion to (a) enables the works to which it relates to be identified with  
licens- sufficient certainty by persons likely to require licences; and  
ing (b) sets out clearly the charges (if any) payable and the other terms on  
scheme, which licences will be granted.

(2) The scheme shall be scheduled to the order and the scheme shall come  
into operation for the purposes of sections 58, 78 or such other provisions as may  
be prescribed-

- (a) on such date, being not less than eight weeks after the order is  
made, as may be specified in the order; or
- (b) if the scheme is the subject of a reference under section 89, any  
later date on which the order of the Copyright Tribunal under that  
section comes into force or the reference is withdrawn.

(3) A variation of the scheme is not effective unless the order is amended  
by the Minister; and the Minister shall make the amendment in the case of a  
variation ordered by the Copyright Tribunal on a reference under section 89, 90  
or 91 and may do so in any other case if he thinks fit.

(4) The Minister may, by order' revoke an order made under subsection (1)  
if it appears to him that the scheme to which the order relates is no longer being  
operated according to its terms, and shall revoke the order if the scheme ceases to  
be operated.



## **PART VIII - THE COPYRIGHT TRIBUNAL**

Establish- 103.-(1) There is hereby established for the purposes of this Act a tribunal to be  
ment of called the Copyright Tribunal.

Tribunal. (2) The provisions of the Schedule shall have effect as to the constitution  
Schedule of the Tribunal and otherwise in relation thereto.

Jurisdic- 104.-(1) The functions of the Tribunal shall be-

tion of (a) to hear and determine-

Tribunal. (i) any matter referred to it pursuant to any provision of Part  
VII relating to a licensing scheme or licence;  
(ii) an application under section 101 to settle the royalty or  
other sum payable for rental of a sound recording, film or  
computer program;

(b) to keep under review the prescribed rate of royalty payable to a  
performer in connection with an adaptation of an original  
recording of his performance; and

(c) to make recommendations to the Minister on the rate of royalties  
or other payments payable in respect of the use or presentation in  
such national cultural event as he may by order designate of any  
works or performance in which copyright or other rights subsist.

(2) In relation to its functions under subsection (1) (b), the Tribunal may  
from time to time on its own initiative and shall, on a request made in writing by  
the Minister enquire into the appropriateness of such rate and make such  
recommendations to the Minister with respect thereto as it think fit.

Regula- 105.-(1) The Minister may make regulations relating to proceedings before the  
tions Copyright Tribunal and provisions shall be made in such regulations-  
relating (a) prohibiting the Tribunal from entertaining a reference under  
to pro- section 89, 90 or 91 by a representative organization unless the  
ceedings Tribunal is satisfied that the organization is reasonably  
of representative of the class of persons which it claims to represent;  
Tribunal. (b) specifying the parties to any proceedings and enabling the Tribunal  
to make a party to the proceedings any person or organization  
which the Tribunal is satisfied has a substantial interest in the  
matter; and  
(c) requiring the Tribunal to give the parties to the proceedings an  
opportunity to state their case, in writing or orally as the  
regulations may provide.

(2) The regulations may prescribe any matter incidental to or  
consequential upon any appeal from the Tribunal under section 106.

(3) Regulations made under this section shall be subject to negative  
resolution of the National Assembly.

Appeal 106.-(1) An appeal lies on any point of law arising from a decision of the  
on point Copyright Tribunal to the High Court .  
of law. (2) Regulations made under section 105 may limit the time within which  
an appeal may be brought.

#### **PART IX - RIGHTS IN PERFORMANCES**

Confer- 107.-(1) By virtue of, and subject to the provisions of this Part, rights are  
ment of conferred on-

- rights in  
perform-  
ances.
- (a) a performer, requiring his consent to the exploitation of his performance; and
  - (b) a person having recording rights in relation to a performance, requiring his consent to the making of a recording of that performance.
- (2) The rights conferred by this Part are independent of-
- (a) any copyright in or moral rights relating to any work used or performed in the performance; and
  - (b) any other right or obligation arising otherwise than under this Part.

*Performers' Rights*

- Consent  
required  
for  
recording  
etc. of  
perform-  
ance.
- 108.- (1) A performer's rights are infringed by a person who, without his consent-
- (a) makes, otherwise than for his private and domestic use, a recording of the whole or any substantial part of a qualifying performance; or
  - (b) broadcasts live, or includes live in a cable programme service, the whole or any substantial part of a qualifying performance.
- (2) In an action for infringement of a performer's rights brought by virtue of this section, damages shall not be awarded against a defendant who shows that at the time of the infringement he believed on reasonable grounds that consent had been given.
- Infringe-  
ment of  
perform-  
er's  
rights by
109. A performer's rights are infringed by a person who, without his consent-
- (a) shows or plays in public the whole or any substantial part of a qualifying performance; or
  - (b) broadcasts or includes in a cable programme service the whole or any substantial part of a qualifying performance,

use of by means of a recording which was made without the performer's consent and that  
record- person knows or has reason to believe that it was so made.  
ing.

Consent 110.-(1) A performer's rights are infringed by a person who, without his consent  
and and payment of royalty at the prescribed rate, uses an original recording of a  
royalty qualifying performance (whether authorized or not) for the purpose of making an  
for adaptation of the recording.

adapta- (2) In subsection (1) "an adaptation of the recording" means a recording in  
tion of which the performance is accompanied by lyrics or music not contained in the .  
record- original recording.  
ing.

Infringe- 111.-(1) A performer's rights are infringed by a person who, without his consent-  
ment of (a) imports into Guyana otherwise than for his private and  
perform- domestic use; or  
er's (b) in the course of a business, possesses, sells or lets for hire, offers or  
rights by exposes for sale or hire, or distributes,  
import- a recording of a qualifying performance which is, and which that person knows or  
ing,etc. has reason to believe is, an illicit recording.

illicit (2) Where in an action for infringement of a performer's rights brought by  
record- virtue of this section a defendant shows that the illicit recording was innocently  
ing. acquired by him or a predecessor in title of his, the remedy in damages available  
against him in respect of the infringement is an amount not exceeding a  
reasonable payment in respect of the act complained of.

(3) In subsection (2) "innocently acquired" means that the person  
acquiring the recording did not know and had no reason to believe that it was an  
illicit recording.

*Rights of Person Having Recording Rights*

- Consent required for recording performance subject to exclusive contract.
- 112.-(1) A person infringes the rights of a person having recording rights in relation to a performance who, without his consent, makes a recording of the whole or any substantial part of the performance otherwise than for his private and domestic use.
- (2) In an action for infringement of those rights brought by virtue of this section, damages shall not be awarded against a defendant who shows that at the time of the infringement he believed on reasonable grounds that consent had been given.
- Infringement of recording rights by use of recording.
- 113.-(1) A person infringes the rights of a person having recording rights in relation to a performance who, without his consent-
- (a) shows or plays in public the whole or any substantial part of the performance; or
- (b) broadcasts or includes in a cable programme service the whole or any substantial part of the performance,
- by means of a recording which was, and which that person knows or has reason to believe was, made without the appropriate consent.
- (2) The reference in subsection (1) to the "appropriate consent" is to the consent of the person who at the time the consent was given had recording rights in relation to the performance (or, if there was more than one such person, of all of them).
- Infringement of recording.
- 114.-(1) A person infringes the rights of a person having recording rights in relation to a performance who, without his consent-
- (a) imports into Guyana otherwise than for his private and domestic use; or

rights (b) in the course of a business possesses, sells or lets for hire, offers or  
by import- exposes for sale or hire or distributes,  
ing etc. a recording of the performance which is, and which that person knows or has  
illicit reason to believe is, an illicit recording.

record- (2) Where in an action for infringement of those rights brought by virtue  
ing. of this section a defendant shows that the illicit recording was innocently  
acquired by him or a predecessor in title of his, the remedy in damages available  
against him in respect of the infringement is an amount not exceeding a  
reasonable payment in respect of the act complained of.

(3) In subsection (2) "innocently acquired" means that the person  
acquiring the recording did not know and had no reason to believe that it was an  
illicit recording.

#### *Exceptions to Infringement*

Permit- 115. Notwithstanding the rights in performances conferred by this Part-

ted acts (a) any act done in relation to a performance or recording in the  
in rela- circumstances specified in sections 116 to 128  
ation to does not constitute an  
infringement of the rights; and

perform- (b) the Copyright Tribunal may give consent on behalf of a  
ances. performer in the circumstances specified in section 128.

Fair 116. Fair dealing with a performance or recording-

dealing (a) for the purpose of criticism or review of that or another  
for performance or recording, or of a work; or

criticism, (b) for the purpose of reporting current events,

etc. does not infringe any of the rights conferred by this Part, and the provisions of  
section 54 shall, with the necessary modifications, apply in determining whether  
or not an act constitutes fair dealing.

Incidental inclusion of performance or recording.

~~117.~~ The rights conferred by this Part are not infringed-

(a) by the incidental inclusion in a sound recording, film, broadcast or cable programme of a performance or recording;

(b) by anything done in relation to copies of, or the playing, showing, broadcasting or inclusion in a cable programme service of, anything whose making was not an infringement of those rights, by virtue of paragraph (a),

and for the purposes of this section, a performance or recording so far as it consists of music, or words spoken or sung with music, shall not be regarded as incidentally included in a sound recording broadcast or cable programme if it is deliberately included.

Acts done to recording or performance for purposes of instruction, etc.

118.- (1) The rights conferred by this Part are not infringed by the copying of a recording of a performance in the course of instruction, or of preparation for instruction, in the making of films or film sound-tracks, provided the copying is done by a person giving or receiving instruction.

(2) The rights conferred by this Part are not infringed-

(a) by the copying of a recording of a performance for the purposes of setting or answering the questions in an examination; or

(b) by anything done for the purposes of an examination by way of communicating the questions to the candidates.

(3) Where a recording which would otherwise be an illicit recording is made in accordance with this section but is subsequently dealt with, it shall be treated as an illicit recording for the purposes of that dealing, and if that dealing infringes any right conferred by this Part, for all subsequent purposes.

(4) In subsection (3) and in section 119 (2) "dealt with" means sold or let for hire, or offered or exposed for sale or hire.

Record- 119.- (1) A recording of a broadcast or cable programme or a copy of such  
ing of recording, may be made by or on behalf of an educational establishment for the  
broad- educational purposes of that establishment without thereby infringing any of the  
cast or rights conferred by this Part in relation to any performance or recording included  
cable pro- in it.

gramme (2) Where a recording which would otherwise be an illicit recording is  
by educa- made in accordance with this section but is subsequently dealt with (as defined in  
tional section 118 (4) ) it shall be treated as an illicit recording for the purposes of that  
establish- dealing and, if that dealing infringes any right conferred by this Part, for all  
ment. subsequent purposes.

Acts done 120. The rights conferred by this Part are not infringed by anything done for the  
to perform- purposes of-

ance or (a) parliamentary or judicial proceedings or the reporting of such  
record- proceedings; or

ing for (b) the proceedings of a statutory inquiry or the reporting of such  
Parlia- proceedings held in public.

mentary  
proceed-  
ings, etc.

Transfer 121.- (1) Where a recording of a performance in electronic form has been  
of record- purchased on terms which, expressly or impliedly or by virtue of any rule of law,  
ing of allow the purchaser to make further recordings in connection with his use of the  
perform- recording, then, in the absence of any express terms-



- ance in  
elec-  
tronic  
form.
- (a) prohibiting the transfer of the recording by the purchaser;
  - (b) imposing obligations which continue after a transfer;
  - (c) prohibiting the assignment of any consent;
  - (d) terminating any consent on a transfer; or
  - (e) providing for the terms on which a transferee may do the things which the purchaser was permitted to do,

anything which the purchaser was allowed to do may also be done by a transferee without infringement of the rights conferred by this Part, but any recording made by the purchaser which is not also transferred shall be treated as an illicit recording for all purposes after the transfer.

(2) Subsection (1) applies where the original purchased recording is no longer usable and what is transferred is a further copy used in its place.

(3) This section also applies on a subsequent transfer, with the substitution for references in subsection (1) to the purchaser of references to the subsequent transferor.

(4) This section does not apply in relation to a recording purchased before the commencement of this Act.

Use of  
for record-  
ings of  
spoken  
words.

122.-(1) Where a recording of the reading or recitation of a literary work is made for the purpose of-

- (a) reporting current events; or
- (b) broadcasting or including in a cable programme service the whole or part of the reading or recitation,

it is not an infringement of the rights conferred by this Part to use the recording (or to copy the recording and use the copy) for that purpose, provided the conditions specified in subsection (2) are met.

(2) The conditions referred to in subsection (1) are that-

- (a) the recording is a direct recording of the reading or recitation and is not taken from a previous recording or from a broadcast or cable programme;
- (b) the making of the recording was not prohibited by or on behalf of the person giving the reading or recitation;
- (c) the use made of the recording is not of a kind prohibited by or on behalf of that person before the recording was made; and
- (d) the use is by or with the authority of a person who is lawfully in possession of the recording.

Playing sound record-  
ing for chari-  
table pur-  
poses.

123.-(1) It is not an infringement of any right conferred by this Part to play a sound recording as part of the activities of, or for the benefit of, a club, society or other organization if -

- (a) the organization is not established or conducted for profit and its main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare; and
- (b) the proceeds of any charge for admission to the place where the recording is to be heard are applied solely for the purposes of the organization.

Incident-  
al record-  
ing for  
purposes  
of broad-  
cast or

124.-(1) Subject to subsection (2), a person who proposes to broadcast a recording of a performance, or to include a recording of a performance in a cable programme service, in circumstances not infringing the rights conferred by this Part, shall be treated as having consent for the purposes of this Part for the making of a further recording for the purposes of the broadcast or cable programme.

cable pro- (2) The consent given under subsection (1) is subject to the following  
gramme. conditions-

- (a) the further recording shall not be used for any other purpose; and
- (b) such recording shall be destroyed within twenty-eight days of being first used for broadcasting the performance or including it in a cable programme service.

(3) A recording made in accordance with this section shall be treated as an illicit recording-

- (a) for the purposes of any use in breach of the condition mentioned in paragraph (a) of subsection (2); and
- (b) for all purposes after that condition or the condition mentioned in paragraph (b) of subsection (2) is breached.

Record- 125.- (1) The rights conferred by this Part are not infringed by the making or use  
ings for by a prescribed broadcasting organization for the purpose of maintaining  
super- supervision and control over programmes broadcast by that organization, of  
vision recordings of those programmes.

and (2) The rights conferred by this Part are not infringed by the making or use  
control of recordings by the Guyana Broadcasting Corporation in connection with and for the  
of pro- purpose of carrying out its functions.  
grammes.

Record- 126.- (1) A recording of a broadcast or cable programme of a designated class, or  
ing of a copy of such a recording, may be made for the purpose of being placed in an  
broad- archive maintained by a designated body without thereby infringing any right  
cast, etc. conferred by this Part in relation to a performance or recording included in the  
for broadcast or cable programme.

archival purpose. (2) In this section "designated" has the meaning assigned to that expression in section 82 (2).

Order 127.-(1) Subject to the provisions of this section, the Minister may, by order, of the National Assembly

except- subject to negative resolution, provide that the rights conferred by this Part are

ing acts not infringed by the doing of such acts in relation to the performance as are

from specified in the order, where such acts are done in the circumstances so specified.

infring- (2) The Minister shall not make an order under subsection (1) unless he is

ing satisfied that the acts specified in the order-

rights (a) are necessary in the public interest in connection with an event of

under national importance;

this (b) would not conflict with the normal exploitation of the

Part. performance; and

(c) would not unreasonably prejudice the legitimate interest of the performer or any person having rights in the performance.

(3) An order made under subsection (1) shall make provision for the payment of equitable remuneration to any person having rights conferred by this Part to be determined, in default of agreement, by the Copyright Tribunal; and such order may contain such consequential, supplemental or ancillary provisions as appear to the Minister to be necessary or expedient for the purpose of giving effect to the order.

Tribunal 128.-(1) Subject to the provisions of this section, the Copyright Tribunal may, on

may the application of a person who wishes to make a recording from a previous

consent: recording of a performance, give consent in a case where-

on (a) the identity or whereabouts of a performer cannot be ascertained

behalf by reasonable inquiry; or

of per-  
former.

(b) a performer unreasonably withholds his consent.

(2) Consent given by the Tribunal has effect as consent of the performer for the purposes of-

(a) the provisions of this Part relating to performers' rights; and

(b) paragraph (a) of subsection (3) of section 134,

and may be given subject to such conditions as the Tribunal may specify in the order.

(3) The Tribunal shall not give consent under paragraph (a) of subsection (1) except after the service or publication of such notices as may be required by regulations made under section 105 or as the Tribunal may in any particular case direct.

(4) The Tribunal shall not give consent under paragraph (b) of subsection (1) unless it is satisfied that the performer's reasons for withholding consent do not include the protection of any legitimate interest of his; but it shall be for the performer to show what his reasons are for withholding consent, and in default of evidence as to his reasons the Tribunal may draw such inferences as it thinks fit.

(5) In any case the Tribunal shall take into account the following factors-

- (a) whether the original recording was made with the performer's consent and is lawfully in the possession or control of the person proposing to make the further recording;
- (b) whether the making of the further recording is consistent with the obligations of the parties to the arrangements under which, or is otherwise consistent with the purposes for which, the original recording was made.

(6) Where the Tribunal gives consent under this section, it shall, in default of agreement between the applicant and the performer, make such order as it thinks fit as to the payment to be made to the performer in consideration of consent being given.

*Duration and Transmission of Rights in  
Performances; Consent*

Duration of rights in performances. 129. The rights conferred by this Part continue to subsist in relation to a performance until the end of the period of fifty years from the end of the calendar year in which the performance takes place.

Transmission of rights in performances. 130.-(1) The rights conferred by this Part are not assignable or transmissible, except to the extent that performers' rights are transmissible as provided in this section.

(2) On the death of a person entitled to performer's rights-

(a) the rights pass to such person as he may by testamentary disposition specifically direct; and

(b) if, or to the extent that there is no such direction, the rights are exercisable by his personal representative,

and references in this Part to the performer, in the context of the person having performer's rights, shall be construed as references to the person for the time being entitled to exercise those rights.

(3) Where by virtue of paragraph (a) of subsection (2) a right becomes exercisable by more than one person, it is exercisable by each of them independently of the other or others.

(4) Subsections (1), (2) and (3) are without prejudice to any rights conferred by this Act on a person to whom has been assigned the benefit of an exclusive recording contract or licence to make recordings of a performance.

(5) Any damages recovered by personal representatives by virtue of this section in respect of an infringement after a person's death shall devolve as part of his estate as if the right of action had subsisted and been vested in him immediately before his death.

Consent. 131.-(1) Consent for the purposes of this Part may be given in relation to a specific performance, a specified description of performances, or performances generally, and may relate to past or future performances.

(2) A person having recording rights in a performance is bound by any prior consent given by a person through whom he derives his rights under the exclusive recording contract or licence in question, in the same way as if the consent had been given by him.

(3) Where a right conferred by this Part passes to another person, any consent binding on the person previously entitled binds the person to whom the right passes in the same way as if the consent had been given by him.

#### *Remedies for Infringement of Rights*

##### *in Performances*

Infringe- 132. An infringement of any of the rights conferred by this Part is actionable by  
ment the person entitled to the right as a breach of statutory duty.

as breach  
of duty.

Order 133.-(1) Where a person has in his possession, custody or control in the course of  
for a business an illicit recording of a performance, a person having performer's

delivery rights or recording rights under this Part in relation to the performance, may apply  
up of to the court for an order that the recording be delivered up to him or to such other  
illicit re- person as the court may direct.

ording (2) An application shall not be made after the end of the period specified  
in civil in section 138; and the court shall not make an order under this section unless it  
proceed- also makes an order under section 137 for the disposal of the recording, or it is of  
ings. the opinion that there are grounds on which an order under that section could be  
made.

(3) A person to whom a recording is delivered up in pursuance of an order  
under this section shall, if an order under section 137 is not made, retain it  
pending the making of an order, or the decision not to make an order under that  
section.

(4) Nothing in this section affects any other power of the court.

### *Offences*

Crimin- 134.- (1) A person commits an offence who without sufficient consent-  
al liabi- (a) makes for sale or hire;  
lity for (b) imports into Guyana otherwise than for his private and  
making, domestic use;  
etc. illicit (c) possesses in the course of a business with a view to doing any act  
record- infringing the rights conferred by this Part; or  
ings. (d) in the course of a business-  
(i) sells or lets for hire;  
(ii) offers or exposes for sale or hire; or  
(iii) distributes,

a recording which is, and which he knows or has reason to believe is, an illicit  
recording.



(2) A person commits an offence who causes a recording of a performance made without sufficient consent to be-

- (a) shown or played in public; or
- (b) broadcast or included in a cable programme service,

thereby infringing any of the rights conferred by this Part, if he knows or has reason to believe that those rights are thereby infringed.

(3) In subsections (1) and (2) "sufficient consent" means-

- (a) in the case of a qualifying performance that is not subject to an exclusive recording contract, the consent of the performer; and
- (b) in the case of a performance that is subject to an exclusive recording contract, the consent of the person having recording rights.

(4) References in this section to the person having recording rights are to the person having those rights at the time the consent is given or, if there is more than one such person, to all of them.

(5) No offence is committed under subsection (1) or (2) by the doing of an act which, by virtue of any provision of this Part, may be done without infringing the rights conferred by this Part.

(6) A person guilty of an offence under subsection (1) or (2) shall be liable-

- (a) on summary conviction to a fine of fifty thousand dollars and to imprisonment for two years; or
- (b) on conviction on indictment to a fine of two hundred and fifty thousand dollars and to imprisonment for five years.

- Order for delivery up of illicit recording- ing in criminal proceed- ings.
- 135.- (1) The court before which proceedings are brought against a person for an offence under section 134 may, if satisfied that at the time of his arrest or charge he had in his possession, custody or control in the course of a business an illicit recording of a performance, order that it be delivered up to a person having performers' rights or recording rights in relation to the performance or to such other person as the court may direct.
- (2) An order may be made by the court of its own motion or on the application of the prosecution and may be made whether or not the person is convicted of the offence, but shall not be made
- (a) after the end of the period specified in section 138; or
- (b) if it appears to the court unlikely that any order will be made under section 137.
- (3) An appeal lies to the Court of Appeal from an order made under this section.
- (4) A person to whom an illicit recording is delivered up in pursuance of an order under this section shall retain it pending the making of an order, or the decision not to make an order, under section 137.
- False representation of authority to give consent.
- 136.- (1) It is an offence for a person to represent falsely that he is authorized by any person to give consent for the purposes of this Part in relation to a performance, unless he believes on reasonable grounds that he is so authorized.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

## PART X - GENERAL

- Order for disposal of infringing copy or illicit recording.
- 137.- (1) An application may be made to the court for-
- (a) an order that an infringing copy or article delivered up in pursuance of an order under sections 33 and 48 shall be-
    - (i) forfeited to the copyright owner; or
    - (ii) destroyed or otherwise dealt with as the court may direct;
  - (b) an order that an illicit recording of a performance delivered up in pursuance of an order under section 133 or 135 shall be-
    - (i) forfeited to such person having performer's rights or recording rights in relation to the performance as the court may direct; or
    - (ii) destroyed or otherwise dealt with as the court thinks fit; or
  - (c) a decision that no order under paragraph(a) or (b) should be made.
- (2) In considering what order (if any) should be made, the court shall have regard to all the circumstances of the case and, in particular-
- (a) where the infringement relates to copyright in a work, whether other remedies available in an action for infringement of copyright would be adequate to compensate the copyright owner and to protect his interest;
  - (b) where the infringement relates to rights conferred under Part IX, whether other remedies available in an action for infringement of those rights would be adequate to compensate the person or persons entitled to the rights and to protect their interests.

(3) Provision shall be made by regulations as to the service of notice on persons having an interest in the infringing copy or other articles or the illicit recording, as the case may be, and any such person is entitled-

(a) to appear in proceedings for an order under this section whether or not he was served with notice; and

(b) to appeal against any order made, whether or not he appeared, and an order shall not take effect until the end of the period within which notice of an appeal may be given or, if before the end of that period notice of appeal is duly given, until the final determination or abandonment of the proceedings on the appeal.

(4) Where there is more than one person interested in an infringing copy or other article, or as the case may be, an illicit recording, the court shall make such order as it thinks just and may, in particular, direct that such copy, article or recording be sold, or otherwise dealt with, and the proceeds divided.

(5) If the court decides that no order should be made under this section, the person in whose possession, custody or control the copy or article or, as the case may be, the recording was before being delivered up or seized is entitled to its return.

(6) References in this section to a person having an interest in a copy or other article or a recording include any person in whose favour an order could be made in respect of the copy, article or, as the case may be, recording under this section.

Period	138 - (1) An application for an order under section 33 or 133 may not be made
after	after the end of the period of six years from the date on which the infringing copy
which	or article or, as the case may be, the illicit recording in question was made,
delivery	subject to the following provisions.

up not (2) If during the whole or any part of that period a person entitled to apply  
available. for an order-

- (a) is under a disability; or
- (b) is prevented by fraud or concealment from discovering the facts  
entitling him to apply,

an application may be made by him at any time before the end of the period of six  
years from the date on which he ceased to be under a disability or, as the case  
may be, could with reasonable diligence have discovered those facts.

Time 139. No prosecution for an offence under this Act shall be commenced after the  
limit for expiration of five years after the commission of the offence or one year after the  
prosecu- discovery there of, whatever date last occurs.  
tion.

Powers 140. (1) Subject to subsection (3) and section 141, a member of the  
of mem- Police Force of or above the rank of Inspector may, if he is satisfied that

ber of <sup>has been,</sup>  
there is reasonable cause to believe that an offence against this Act is being or is about to be  
Police committed, give directions to any constable authorizing him to-

- Force.
- (a) enter and search any premises or place;
  - (b) stop, board and search any vessel (other than a ship of war) or any  
aircraft (other than a military aircraft); or
  - (c) stop and search any vehicle, in which the constable reasonably  
suspects there is an infringing copy of a work or an illicit  
recording or any article used or intended to be used for making  
infringing copies or illicit recordings; and

- (d) seize, remove or detain-
  - (i) any article which appears to the constable to be an infringing copy or an illicit-recording or any other article which appears to him to be intended for use for making such copies or recordings; and
  - (ii) anything which appears to him to be or to contain, or to be likely to be or to contain, evidence of an offence under this Act.

(2) A constable to whom directions have been given under subsection (1) may-

- (a) break open any outer or inner door of any place which he is authorized by this section to enter and search;
- (b) forcibly board any vessel, aircraft or vehicle which he is authorized under this Act to stop, board and search;
- (c) remove by force any person or thing obstructing him in the exercise of any power conferred on him by this Act;  
arrest and
- (d)  $\angle$  detain any person found in any place which he is authorized under this section to search until such person can be brought before a magistrate as soon as is reasonably practicable, and dealt with according to law;
- (e) detain any vessel or aircraft which he is authorized under this section to stop, board and search, and prevent any person from approaching or boarding such vessel or aircraft until it has been searched;
- (f) detain any vehicle which he is authorized under this Act to stop and search until it has been searched;

(3) It shall be the duty of any constable in the execution of any directions given under subsection (1) to produce the instrument containing the directions to the owner or occupier of any premises, place, vessel or aircraft entered or vehicle stopped, pursuant to such directions if required by such owner or occupier to do so.

Restric- 141.-(1) No domestic premises shall be entered and searched pursuant to section  
tions on 140 unless a magistrate has issued a warrant under subsection (2).  
entry and (2) A magistrate may, if he is satisfied by information on oath that there is  
search of reasonable ground for suspecting that there is in any domestic premises any  
domestic article which may be seized, removed or detained under any provision of this Act,  
premises. issue a warrant authorizing a member of the Police Force not below the  
rank of Sergeant to enter and search the premises, and such member may call  
upon any constable to assist him in entering and searching the premises.

(3) In this section "domestic premises" means any premises or any part thereof, used exclusively or mainly as a dwelling.

Obstruc- 142.-(1) Without prejudice to any other written law, any person who-  
tion of (a) willfully obstructs a member of the Police Force in the  
members exercise of his powers or the performance of his duties under this  
of Police Act;  
Force. (b) willfully fails to comply with any requirement properly made to  
him by any such member; or  
(c) without reasonable excuse fails to give such member any other  
assistance which he may reasonably require to be given for the  
purpose of exercising his powers or performing his duties under  
this Act,

is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for a term not exceeding one year.

(2) A person who, when required to give information to a member of the Police Force in the exercise of his powers or the performance of his duties under this Act, knowingly gives false or misleading information to any such member is liable on summary conviction to fine of five thousand dollars and to imprisonment for six months.

(3) Nothing in this section shall be construed as requiring any person to give any information which may incriminate him.

Offences 143. Where an offence under this Act committed by a body corporate is proved by body to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, any director, manager, secretary or other similar officer of corporate. the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly.

Power 144.-(1) Subject to the provisions of this section the Minister may by order to provide that in respect of any country specified in the order, any provisions of this apply Act so specified shall apply; in relation to -

provi- (a) persons who are citizens or habitual residents of sions that country as they apply to persons who are citizens or of Act habitual residents of Guyana

to (b) bodies incorporated or established under the laws of other that country as they apply in relation to bodies incorporated or country. established under the laws of Guyana



- (c) literary, dramatic, musical or artistic works, sound recordings, films and editions first published in that country as they apply in relation to such works, sound recordings, films and editions first published in Guyana ;
- (d) broadcasts made from or cable programmes sent from that country as they apply in relation to broadcasts made from or cable programmes sent from Guyana ;
- (e) performances taking place in that country or given by an individual who is a citizen or habitual resident of that country, as they apply in relation to performances taking place in Guyana or given by an individual who is a citizen or habitual resident of Guyana .

(2) An order made under this section applying any provisions of this Act in relation to any country may apply that provision-

- (a) without exception or modification or subject to such exceptions and modifications as may be specified in the order;
- (b) generally or in relation to such classes of works or other classes of case as may be so specified.

(3) An order shall not be made under this section in relation to any country unless the country is-

- (a) a Convention country; or
- (b) a country as to which the Minister is satisfied that provision has been or will be made under its law in respect of the class of works or (as the case may be) the

performances, to which the order relates, giving adequate protection to the owners of copyright under this Act or, as the case may be, to Guyana in performances as defined in section 145 (4).

(4) In this section "Convention country" means a country which is a party to a Convention relating to copyright or performers' rights, to which Guyana is also a party.

Denial of copyright or rights in performances. 145.- (1) If it appears to the Minister that the laws of a country fail to give adequate protection to Guyanese works to which this section applies or to Guyanese performances, or fail to give adequate protection in the case of one or more classes of such works or performances, (whether the lack of protection relates to the nature of the work or performance or the nationality, citizenship or country of its author or performer or all of those matters) the Minister may, by order, make provision in relation to that country in accordance with subsection (2).

(2) An order made for the purposes of this section shall designate the country concerned and may provide either generally or in relation to such classes of case as are specified in the order, that copyright shall not subsist in works first published, or, as the case may be, that rights in performances shall not subsist in performances first given, after a date specified in the order (which may be a date before the commencement of this Act) if, at the time of the first publication of those works or the giving of the performance, as the case may be, the authors of the works or the performers were or are-

- (a) citizens or nationals of that country, not being at that time persons whose habitual residence is in Guyana or a specified country (excluding the country concerned); or
- (b) in the case of works, bodies incorporated or established under the laws of that country.

(3) The Minister shall, in making an order under this section, have regard to the nature and extent of the lack of protection for Guyanese works or Guyanese performances in consequence of which the order is being made.

(4) This section applies to literary, dramatic, musical and artistic works, sound recordings and films, and for the purposes of this section-

"Guyanese performances" means-

- (a) performances given by individuals who are citizens or habitual residents of Guyana ; or
- (b) performances that take place in Guyana ;

"Guyanese works" means works of which the author was a qualified person at the material time within the meaning of section 7 (3).

International  
146.-(1) This section applies to international organizations as to which the  
Minister by order has declared that it is expedient that this section should apply.

organisations.  
(2) Where an original literary, dramatic, musical or artistic work is first published by or under the direction or control of an international organization to which this section applies in such circumstances that copyright would not, except by virtue of this subsection, subsist in the work immediately after the first publication thereof, and-

- (a) the work is so published in pursuance of an agreement with the author which does not reserve to the author the copyright, if any, in the work; or
- (b) the work was made in such circumstances that, if it had been first published in Guyana the organization would have been entitled to the copyright in the work,

then, copyright shall subsist in the work by virtue of this section and the organization shall be first owner of that copyright.

(3) Copyright of which an international organization is first owner by virtue of this section shall subsist until the end of the period of fifty years from the end of the calendar year in which the work was made or such longer period as may be specified by the Minister, by order, for the purpose of complying with the international obligations of Guyana

(4) An organization to which this section applies which otherwise has not, or at some material time otherwise has not, the legal capacities of a body corporate shall have, and shall be deemed at all material times to have had, the legal capacities of a body corporate for the purpose of holding, dealing with and enforcing copyright, and in connection with all legal proceedings relating to copyright.

Terri- 147.-(1) For the purposes of this Act, the territorial sea and the exclusive  
torial economic zone of Guyana shall be treated as part of Guyana  
waters;

and (2) This Act applies to things done in the exclusive economic zone as it  
applies to things done in Guyana

exclusive (3) In this section-

economic “exclusive economic zone” means the marine zone as designated

zone . No. 10 of 1977 under section 3 of the Maritime Boundaries Act 1977;

“territorial waters” means the territorial waters as defined in

section 3 of the Maritime Boundaries Act 1977.

Act applies 148. (1) <sup>Act</sup> This applies to things done on a Guyanese ship or Guyanese

to ship, aircraft as it applies to things done in Guyana.

aircraft (2) In this section -

registered (a) “Guyanese ship” means a vessel registered under Part IV of

in state. No. 7 of 1998 the Guyana Shipping Act 1998;

(b) “Guyanese aircraft” means an aircraft registered under the

Colonial (Air Navigation) Order 1961.

Act 149. This Act binds the State.

binds

State

Regula- 150. The Minister may make regulations prescribing such matters as are required

tions. or permitted by this Act to be prescribed or as are necessary or desirable to be

prescribed for giving effect to this Act.

Repeals. 151.-(1) The Copyright Act 1956 of the United Kingdom, in so far as it is

part of the law of Guyana is hereby repealed.

Cap.2:01. (2) Without prejudice to anything in the Interpretation and General

Clauses Act, the repeal under subsection (1) of the Act of the United

Kingdom includes the repeal of any Order-in-Council and subsidiary

legislation made under that Act, in so far as it has effect as part of the law

of Guyana.

Savings. 152. Nothing in this Act shall affect the operation of any rule of equity relating to a breach of trust or confidence.

Transi- 153.-(1) Where immediately prior to the appointed day copyright subsists  
tional in Guyana in any literary, dramatic, musical or artistic work by virtue of  
provi- the Copyright Act 1956 of the United Kingdom, such copyright shall  
sions. continue to subsist, and the person entitled thereto by virtue of that Act  
shall be the owner thereof, under and subject to this Act, and in particular -

- (a) the duration of such copyright;
- (b) the acts comprised within the exclusive rights attaching to such copyright; and
- (c) the effect upon the ownership of such copyright of any event or transaction occurring or of any contract or agreement made on or after the appointed day, shall be governed by this Act;

Provided that where immediately before the appointed day copyright subsists in a work by virtue of the proviso to subsection (3) of section 2 of the Copyright Act, 1956 of the United Kingdom, such copyright shall continue to subsist for the remainder of the period for which it would have subsisted if this Act had not been passed.

(2) Where, on the appointed day copyright subsists in Guyana by virtue of section 12 (1) of the Copyright Act, 1956 of the United Kingdom in any sound recording, such copyright shall continue-

- (a) to subsist for the remainder of the period for which it would have subsisted if this Act had not been passed; and
- (b) in relation to any such sound recording, to have the meaning and effect it would have had if this Act had not been passed.

(3) No act done before the appointed day is actionable by virtue of the conferment of the rights specified in Part III.

(4) The right conferred by section 14 to be identified as the author or, as the case may be, director of a work, and the right conferred by section 15 to object to derogatory treatment of such work, shall not apply-

- (a) in relation to a literary, dramatic, musical or artistic work of which the author died before the appointed day; or
- (b) in relation to a film made before the appointed day.

(5) The rights in relation to a literary, dramatic, musical or artistic work existing before the appointed day do not apply-

- (a) where copyright first vested in the author, to anything which, by virtue of an assignment of copyright made or licence granted before the appointed day, may be done without infringing copyright;
- (b) where copyright first vested in a person other than the author, to anything done by or with the licence of the copyright owner.

(6) The right to privacy conferred by section 17 in respect of photographs and films does not apply to photographs taken or films made, before the appointed day.

(7) Where before the appointed day any person has incurred any expenditure or liability in connection with or in contemplation of, the doing of an act in relation to a protected work or a performance in respect of which rights are conferred by this Act, being an act which prior to that date would have been lawful, nothing in this Act shall diminish or prejudice any rights or interests which, in relation to that work or performance, are subsisting and valuable on the

appointed day, unless the person who, by virtue of this Act, is the owner of the copyright or the person having rights in the performance agrees to pay such compensation as, in default of agreement, may be fixed by the Copyright Tribunal.

(8) Where an act done before the appointed day was then an infringement of copyright but is not an infringement of copyright under this Act, then, proceedings in respect of that Act may be taken as if this Act had not been passed.

(9) An act done before the appointed day shall not be an infringement of copyright or rights in performances conferred by this Act if that Act would not, but for the passing of this Act, have constituted an infringement.

(10) Proceedings for infringement of copyright instituted but not disposed of before the appointed day shall be disposed of as if this Act had not been passed.

(11) Proceedings under this Act for infringement may be taken notwithstanding that the alleged infringement occurred before the appointed day.

(12) In this section “appointed day” means the day appointed pursuant to section 1.



**SCHEDULE**

ss. 2(1), 103(2)

*Copyright Tribunal*

- Consti- 1. (1) The Tribunal shall consist of a chairman and two deputy chairmen and  
tution not less than two nor more than eight other members.
- of (2) A person<sup>is</sup> eligible for appointment as chairman or a deputy chairman if  
Tribunal. he is an attorney-at-law of not less than five years' standing or a person who has  
held judicial office.
- Appoint- 2. The members of the Tribunal shall be appointed by the Minister by instrument  
ment of in writing, and, subject to the provisions of this Schedule, shall hold office for  
members. such period, not exceeding three years, as may be specified in the instrument, but  
shall be eligible for reappointment.
- Resigna- 3. A member of the Tribunal may at any time resign his office by instrument in  
tions. writing and such resignation shall take effect as from the date of the receipt by  
the Minister of such instrument.
- Revoca- 4. The Minister may by instrument in writing at any time revoke the appointment  
tion. of any member of the Tribunal if-
- (a) he has become bankrupt; or
  - (b) he is incapacitated by physical or mental illness, or if he is, in the  
opinion of the Minister, otherwise unfit to perform his duties as  
member.
- Proceed- 5. (1) The Copyright Tribunal shall sit in such number of divisions as may from  
ings of time to time be necessary.
- Tribunal. (2) A division of the Tribunal shall consist of-
- (a) a chairman, who shall be either the chairman or a deputy chairman  
of the Tribunal; and

(b) two or more other members.

(3) Where in any proceedings the members are not unanimous, the decision of the Tribunal shall be by a majority of the votes of the members, and in the event of an equality of votes, the chairman shall be entitled to a second or casting vote.

(4) Where part of any proceedings before the Tribunal has been heard and one or more members of the Tribunal are unable to continue, the Tribunal shall remain duly constituted for the purpose of those proceedings so long as the number of members is not reduced to less than three.

(5) If the chairman of a division of the Tribunal is unable to continue he shall-

(a) appoint one of the remaining members to act as chairman; and

(b) appoint a suitably qualified person to attend the proceedings and advise the members of any question of law arising.

(6) For the purposes of <sup>sub</sup>paragraph (5) (b), a person is suitably qualified if he is eligible for appointment as a deputy chairman of the Tribunal.

(7) The decision of the Tribunal or a division thereof may be signified under the hand of the chairman.

(8) Subject to the provisions of this Schedule and to any regulations made pursuant to section 150, the Tribunal may regulate its own proceedings.

(9) The validity of the proceedings of the Tribunal shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of any member thereof.

- Power to award costs. 6. The Tribunal may order that the costs or expenses of any proceedings before it incurred by any party shall be paid by any other party, and may tax or settle the amount of any costs or expenses to be paid under any such order or direct in what manner they are to be taxed.
- Officers and employees. 7. The Minister shall make such arrangements in relation to the provision and remuneration of officers and employees of the Tribunal as may from time to time be necessary.
- Remuneration of members. 8. The chairman and other members of the Tribunal and persons appointed under paragraph 5 (5) (b) shall be paid such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.
- Expenses. 9. The expenses of the Tribunal, including the remuneration and allowances referred to in paragraph 8 shall be paid out of moneys provided for the purpose by Parliament .
- Publication. 10. The names of all members of the Tribunal as first constituted and every change in the membership thereof shall be published in the *Gazette*.
- Protection of Tribunal. 11. Notwithstanding anything to the contrary, no act done or proceeding taken under this Act by the Tribunal shall be questioned on the ground of any omission, defect or irregularity not affecting the merits of the case.
- Disclosure of interest. 12. A member of the Tribunal who is interested directly or indirectly in any matter before the Tribunal -
- (a) shall disclose the nature of his interest at any meeting of the Tribunal dealing with the matter, and
  - (b) shall not take part in any deliberation or decision of the Tribunal with respect to that matter.

Protec- 13. No action, suit, prosecution or other proceedings shall be brought or  
tion of instituted personally against any member of the Tribunal in respect of any act  
members. done *bona fide* in the execution or intended execution of the Tribunal's functions  
under this Act.

## EXPLANATORY MEMORANDUM

The law on copyright currently in force in Guyana is substantially the Copyright Act 1956, of the United Kingdom in so far as it is part of the law of Guyana .

Rapid and dramatic technological advances, especially over the last three decades, have revolutionised the modes of creating and disseminating information and extended the categories of works requiring copyright protection. Of critical importance to the development of national and cultural identity is the promotion and encouragement of cultural expressions by nationals within a legal framework which provides protection from the unauthorised exploitation of their creative endeavours. Additionally, there have been significant developments on the international copyright scene, having effect worldwide, which point to the need for up-to-date domestic legislation reflecting international standards.

The provisions of the Bill are consistent with the principal international agreements affecting copyright, including the copyright section of the Agreement on the Trade-Related Aspects of Intellectual Property Rights.

In style and content the Bill is consistent with the pattern of the updated copyright laws of several CARICOM States. The similarity in legislative approach facilitates collaboration and common action in this field, where necessary or desirable.

Part I (clauses 1 to 4) contains the interpretation clauses.

Part II (clauses 5 to 13) sets out the categories of works protected by copyright, the qualifications for protection and the nature and duration of the rights conferred under the Part.

Part III (clauses 14 to 21) sets out the details of the moral rights and the related rights of the author of specified categories of works.

Part IV (clauses 22 to 28) contains provisions dealing with the ownership and assignment of copyright.

Part V (clauses 29 to 50) specifies the acts which constitute infringements of copyright and the remedies available to the copyright owner and an exclusive licensee in respect of such infringements.

Part VI (clauses 51 to 86) contains the exceptions to copyright infringements. These include use of the protected work for research and private study, criticism and review, use for public administration and use by educational establishments, libraries and archives, subject to specified conditions.

Part VII (clauses 87 to 102) contains provisions dealing with the licensing of protected works by licensing bodies, on behalf of copyright owners, and the referral to the Copyright Tribunal of licensing schemes for the use of such works.

Part VIII (clauses 103 to 106) deals with the establishment and jurisdiction of the Copyright Tribunal and provides for the making of regulations governing its operation.

Part IX (clauses 107 to 136) contains provisions which confer rights in performances, on a performer and on a person who has an exclusive recording contract in relation to a performance. Exceptions to these rights are specified and offences are created for dealing with illicit recordings.

Part X (clauses 137 to 153) sets out general provisions. These include provisions making explicit the powers of the police as regards offences created under the Bill authorising the extension of the provisions of the Bill to nationals of other countries, as well as the denial of such protection in certain circumstances, and the making of regulations.

The Schedule contains provisions relating to the constitution and operation of the Copyright Tribunal.

The Bill in short seeks to revise the law relating to copyright bringing it in line with modern legislation on the subject.

Minister of Culture, Youth and Sport.

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