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CHAPTER 138

COPYRIGHT

AN ACT TO REPEAL THE COPYRIGHT ACT 1911, (OF THE UNITED KINGDOM) IN SO FAR AS IT FORMS PART OF THE LAW OF SOLOMON ISLANDS, TO MAKE NEW PROVISIONS IN RESPECT OF COPYRIGHT AND RELATED MATTERS, AND FOR PURPOSES CONNECTED THEREWITH OR INCIDENTAL THERETO

28 of 1987

[1st June 1988]

PART I

PRELIMINARY

1. This Act may be cited as the Copyright Act.

Short title

2.—(1) In this Act, unless the context otherwise requires —
“adaptation” means —

Interpretation

(a) in relation to a literary work in a dramatic form, a version of the work (whether in its original language or in a different language) in a non-dramatic form;

(b) in relation to a literary work in a non-dramatic form, a version of the work (whether in its original language or in a different language) in a dramatic form;

(c) in relation to a literary work (whether in a dramatic form or in a non-dramatic form) —

(i) a translation of the work; or

(ii) a version of the work in which the story or action is conveyed wholly or mainly by means of pictures;

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

(e) in relation to a computer program, includes a version of the program in which it is converted into or out of a computer language or code or into a different computer language or code;

“artistic work” means —

(a) any painting, sculpture, drawing, engraving or photograph irrespective of the artistic quality of the work;

(b) any building or any model for or of any building;

- (c) any work of artistic craftsmanship not referred to in paragraph (a) or paragraph (b);
- “broadcast” or “broadcasting” means the transmitting, for reception by the general public, by wireless or by means of wire, of sounds or images and sounds;
- “cinematograph film” means the aggregate of the visual images embodied in material of any description so as to be capable, by the use of that material —
- (a) of being shown as a moving picture; or
- (b) of being embodied in other material by the use of which it can be shown,
- together with the aggregate of the sounds embodied in any sound-track associated with those visual images;
- “copyright” in relation to a work or other subject-matter means the exclusive right, by virtue and subject to the provisions of this Act, to do, and to authorise other persons to do, in relation to that work or other subject-matter, those acts which under the provisions of this Act constitute an infringement of copyright in that work or other subject-matter, as the case may be, if done by a person other than the owner of the copyright and without his licence;
- “dramatic work” includes —
- (a) a choreographic show or other dumb show if described in writing in the form in which the show is to be presented;
- (b) a scenario or script for a cinematograph film; but does not include a cinematograph film as distinct from the scenario or script for a cinematograph film;
- “drawing” includes any diagram, map, plan or chart;
- “engraving” includes any etching, lithograph, wood carving, print or similar work, not being a photograph;
- “literary work” means any work which is written, spoken or sung irrespective of quality and includes any written table, compilation or computer program;
- “manuscript” in relation to a work means the original document embodying the work, whether written by hand or not;
- “photograph” means any product of photography or any process akin to photography, but does not include any part of a cinematograph film;
- “publication” means —

- (a) in relation to a literary, dramatic or musical work, or an edition of such a work, or an artistic work, means the supplying to the public (whether by sale or otherwise) of reproductions of the work or edition;
- (b) in relation to a cinematograph film means the selling, or the letting on hire or the offering or exposing for sale or hire, of copies of the film;
- (c) in relation to a sound recording, means the supplying to the public (whether by sale or otherwise) of records embodying the recording or part of the recording;
- “qualified person” means a person who —
- (a) in the case of an individual, is a citizen of Solomon Islands or (not being a citizen of Solomon Islands) is domiciled or resident in Solomon Islands; and
- (b) in the case of a body corporate, is incorporated by, or under, the laws of Solomon Islands;
- “record” means any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable of being reproduced therefrom;
- “re-diffusion system” means a system for the transmitting and receiving over wires or cables of sound or visual images;
- “reproduction” means —
- (a) in the case of a literary, dramatic or musical work, includes a reproduction in the form of a record or of a cinematograph film;
- (b) in the case of an artistic work, includes a version produced by converting the work into a three-dimensional form, or, if it is in three dimensions, by converting it into a two-dimensional form;
- (c) in the case of sound recording, means a record of that sound recording and references to reproducing a work or sound recording shall be construed accordingly; and in the case of an artistic work, includes a version produced by converting the work into a three-dimensional form, or, if it is in three dimensions, by converting it into two dimensional form, and references to reproducing a work or sound recording shall be construed accordingly;
- “sculpture” includes any cast or model for purposes of sculpture;
- “sound broadcast” means sound broadcast otherwise than as part of a television broadcast;

“sound recording” means the aggregate of the sounds embodied in, and capable of being reproduced by means of, a record of any description, other than a sound-track associated with a cinematograph film;

“television broadcast” means visual images broadcast by way of television, together with any sounds, broadcast for reception along with those images;

“writing” means any mode of representing or reproducing words, figures or symbols in a visible form.

(2) References in this Act to the time at which, or the period during which, a literary, dramatic, musical or artistic work was made are references to the time or period at or during which it was first reduced to writing or some other material form.

(3) References in this Act to the doing of any act in relation to a literary, dramatic or musical work include references to the doing of that act or in relation to an adaptation of the work.

(4) Where a literary, dramatic or musical work is performed, or sounds or visual images are caused to be heard or seen, by the operation of any receiving apparatus —

(a) to which those sounds are conveyed by the transmission of electromagnetic energy; and

(b) which is provided by, or with the consent of, the occupier of the premises where the apparatus is situated,

the occupier of those premises shall, for the purposes of this Act, be taken to be the person giving the performance or causing the sounds or images to be heard or seen, whether he is the person operating the apparatus or not.

(5) For the purposes of this Act, the performance, the supplying to the public (whether by sale or otherwise) of records, of a literary, dramatic or musical work, the exhibition of an artistic work, the construction of a building or of a model of a building, and the supplying to the public (whether by sale or otherwise) of photographs or engravings of a building or of a model of a building, or of photographs or engravings of a sculpture, do not constitute publication of the work.

(6) A publication which is merely colourable and is not intended to satisfy the reasonable requirements of the public shall, except for the purposes of section 37 or in so far as it may constitute an infringement of copyright, be disregarded.

(7) For the purposes of this Act, a publication in Solomon Islands 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 provisions of this Act —

(a) whether a work or other subject-matter has been published; or

(b) whether a publication of a work or other subject-matter was the first publication of the work or other subject-matter; or

(c) whether a work or other subject-matter was published or otherwise dealt with in the life-time of a person, any unauthorised publication or the doing of any other unauthorised act shall be disregarded.

(9) Subject to the provisions of section 8(3) a publication or other act shall, for the purposes of subsection (8) of this section, be taken to have been unauthorised —

(a) if copyright subsisted in the work or other subject-matter and the publication or other act was done otherwise than by, or with the licence of the owner of the copyright; or

(b) if copyright did not subsist in the work or other subject-matter and the publication or other act was done otherwise than by, or with the licence of —

(i) the author or, in the case of a sound recording or a cinematograph film or an edition of a literary, dramatic or musical work, the maker or publisher, as the case may be, or

(ii) persons claiming under the author, maker or publisher.

(10) Nothing in subsections (8) or (9) shall affect any provisions of this Act relating to the acts constituting infringements of copyright, or the provisions of section 37.

PART II

COPYRIGHT IN LITERARY, DRAMATIC, MUSICAL AND ARTISTIC WORKS

3.—(1) Copyright shall subsist, subject to the provisions of this Act, in every original —

(a) literary work; or

(b) dramatic work; or

Copyright in literary, dramatic and artistic works

(c) musical work; or

(d) artistic work,

which is unpublished, and of which the author was a qualified person, at the time at which the work was made, or if the making of the work extended over a period, was a qualified person for a substantial part of that period.

(2) Where an original literary, dramatic, musical or artistic work has been published, then, subject to the provisions of this Act, copyright shall subsist in the work, or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist —

(a) if the first publication of the work took place in Solomon Islands; or

(b) if the author of the work was a qualified person at the time at which the work was first published; or

(c) if the author had died before that time, but he was a qualified person immediately before his death.

(3) Subject to the provisions of subsection (2) copyright subsisting in a work by virtue of this section shall, except in the cases for which provisions are made by subsections (4) and (6) and by section 4, continue to subsist until the end of the period of fifty years from the end of the calendar year in which the author died, and shall then expire.

(4) Where none of the acts specified in subsection (5) is done before the death of the author of a literary, dramatic or musical work in which copyright subsists by virtue of this section, the copyright shall, except in the case for which provision is made in section 4, continue to subsist until the end of the period of fifty years from the end of the calendar year in which any of those acts is done for the first time, and shall then expire.

(5) The acts referred to in subsection (4) are —

(a) the publication of the work;

(b) the performance of the work in public;

(c) the offer for sale to the public of records of the work;

(d) the broadcasting of the work.

(6) Where copyright subsists in an artistic work by virtue of this section —

(a) if the work is an engraving which is not published before the death of the author, the copyright shall continue to subsist until the end of the period of fifty years from the

end of the calendar year in which the engraving is first published, and shall then expire;

(b) if the work is a photograph, the copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the photograph is first published, and shall then expire.

(7) Where a work is produced by the collaboration of two or more authors in such a manner that the contribution of each author is not separate from the contribution of the other author or authors —

(a) references to the author in subsections (1) and (2) shall be construed as references to any one or more of the authors;

(b) the reference to the author in subsection (3) shall be construed as a reference to the author who died last.

4.—(1) Where the first publication of a literary, dramatic or musical work, or of an artistic work other than a photograph, is anonymous or pseudonymous, any copyright subsisting in the work by virtue of section 3 shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the work was first published, and shall then expire.

Duration of copyright in anonymous and pseudonymous publications

(2) A publication of work under two or more names shall not be taken to be pseudonymous unless all those names are pseudonymous.

(3) Subsection (1) shall not apply if, before the end of fifty years mentioned in that subsection, the identity of the author, or, in the case of a work of joint authorship, the identity of any of the authors, is generally known or can be ascertained by reasonable inquiry.

(4) In subsection (3) “a work of joint authorship” means a work produced by the collaboration of two or more authors in such a manner that the contribution of each author is not separate from the contribution of the other author or authors.

5.—(1) Subject to the provisions of subsections (2), (3) and (4), the author of a literary, dramatic, musical or artistic work shall be entitled to any copyright subsisting in the work by virtue of this Part.

Ownership of copyright in literary, dramatic, musical and artistic works

(2) Where a literary, dramatic or artistic work is made by the author —

(a) in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship; and

(b) for the purpose of publication in a newspaper, magazine or similar periodical,

that proprietor shall be entitled to the copyright in the work in so far as the copyright relates to publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published; but in all other respects the author shall be entitled to any copyright subsisting in the work by virtue of this Part.

(3) Subject to the provisions of subsection (2) where a person commissions the taking of a photograph, or the painting or drawing of a portrait, or the making of an engraving, and pays or agrees to pay for it in money or money's worth, and the work is made in pursuance of that commission, the person who so commissions the work shall be entitled to any copyright subsisting therein by virtue of this Part.

(4) Where, in a case not falling within subsection (2) or subsection (3), a work is made in the course of the author's employment by another person under a contract of service or apprenticeship, that other person shall be entitled to any copyright subsisting in the work by virtue of this Part.

(5) Subsections (2), (3) and (4) shall have effect subject to any agreement excluding the application of any of those subsections to any particular case.

Infringements of
copyright in
literary,
dramatic,
musical and
artistic works

6.—(1) The copyright in a literary, dramatic, musical or artistic work is infringed by any person who, not being the owner of the copyright, and without the licence of the owner thereof —

(a) reproduces the work in any material form; or

(b) publishes the work; or

(c) broadcasts the work; or

(d) causes the work to be transmitted over a rediffusion system; or

(e) makes an adaptation of the work; or

(f) in the cases of a literary, dramatic or musical work —

(i) performs the work in public; or

(ii) permits a place of public entertainment to be used for a performance in public of the work

where the performance constitutes an infringement of the copyright in the work.

(2) The copyright in a literary, dramatic, musical or artistic work is also infringed by any person who, not being the owner of the copyright, and without the licence of the owner thereof —

(a) imports an article into Solomon Islands for any purpose other than his private and domestic use; or

(b) sells or lets for hire any article; or

(c) by way of trade —

(i) offers or exposes for sale or hire any article; or

(ii) exhibits any article in public,

if to his knowledge the making of that article constituted an infringement of the copyright or (in the case of an imported article) would have constituted an infringement of the copyright if the article had been made in Solomon Islands.

(3) Subsection (2) shall apply in relation to the distribution of any article —

(a) for purposes of trade; or

(b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright in question, as it applies in relation to the sale of the article.

(4) Sub-paragraph (ii) of paragraph (f) of subsection (1) shall not apply in a case where the person who permits the place to be used in the manner mentioned in that sub-paragraph —

(a) was not aware, and had no reasonable grounds for suspecting that the performance would be an infringement of the copyright; or

(b) gave the permission gratuitously, or for a consideration which was nominal or (if more than nominal) did not exceed a reasonable estimate of the expenses to be incurred by him in consequence of the use of the place for the performance.

7.—(1) The copyright subsisting in any literary, dramatic, musical or artistic work by virtue of this Part is not infringed by —

(a) any fair dealing with the work for purposes of research or private study; or

(b) any fair dealing with the work for purposes of criticism or review whether of that work or of another

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exceptions

work, if that dealing is accompanied by a sufficient acknowledgment; or

(c) reproducing the work for the purposes of a judicial proceeding, or for the purposes of a report of a judicial proceeding.

(2) The copyright subsisting in any literary, dramatic or musical work by virtue of this Part is not infringed by —

(a) any fair dealing with the work for the purpose of reporting current events in a newspaper, magazine or similar periodical, if that dealing is accompanied by a sufficient acknowledgment; or

(b) any fair dealing with the work for the purpose of reporting current events by means of broadcasting, or in a cinematograph film.

(3) The reading or recitation in public by one person of any reasonable extract from a published literary or dramatic work, if accompanied by a sufficient acknowledgment, shall not constitute an infringement of copyright in the work; but this subsection shall not apply to anything done for the purposes of broadcasting.

(4) The copyright in a published literary or dramatic work is not infringed by the inclusion of a short passage therefrom in a collection intended for the use of educational institutions, if —

(a) that collection is described in its title, and in any advertisements thereof issued by or on behalf of the publisher, as being so intended; and

(b) that work was not itself published for the use of educational institutions; and

(c) that collection consists mainly of material in which no copyright subsists; and

(d) the inclusion of the passage is accompanied by a sufficient acknowledgment; and

(e) that collection, whether alone or taken together with any similar collection published by the same publisher within the period of five years immediately preceding the publication of that collection, contains no more than one other passage from works of the author in which copyright subsists at the time of publication of that collection.

(5) Subject to the provisions of subsection (6), where by virtue of an assignment or a licence a person is authorised to broadcast a literary, dramatic or musical work from any place in

Solomon Islands but would not (except by virtue of this subsection) be entitled to make reproductions of it in the form of a record or of a cinematograph film the copyright in the work is not infringed by his making such a reproduction solely for the purpose of broadcasting the work.

(6) Subsection (5) shall not apply if the reproduction referred to in that subsection —

(a) is used for making any further reproduction therefrom, or for any other purpose except that of broadcasting in accordance with the assignment or licence; or

(b) is not destroyed before the end of the period of twenty-eight days beginning with the day on which it is first used for broadcasting the work in pursuance of the assignment or licence, or before the end of such extended period (if any) as may be agreed between the person who made the reproduction and the person who, in relation to the making of reproductions of that description, is the owner of the copyright.

(7) The copyright in —

(a) any sculpture; or

(b) any work of artistic craftsmanship of the kind described in the definition of "artistic work" in subsection (1) of section 2,

which is permanently situated in a public place, or in premises open to the public, is not infringed by the making of a painting, drawing, engraving or photograph of the work, or the inclusion of the work in a cinematograph film or in a television broadcast.

(8) The copyright in a work of architecture is not infringed by the making of a painting, drawing, engraving or photograph of the work, or the inclusion of the work in a cinematograph film or in a television broadcast.

(9) Without prejudice to the provisions of subsections (7) and (8), the copyright in an artistic work is not infringed by the inclusion of the work in a cinematograph film or in a television broadcast, if that inclusion is only by way of background or is otherwise only incidental to the principal matters represented in the film or broadcast.

(10) The copyright in an artistic work is not infringed by the publication of a painting, drawing, engraving, photograph or cinematograph film, if by virtue of subsections (7) or (8) or (9)

the making of that painting, drawing, engraving, photograph or film did not constitute an infringement of the copyright.

(11) The making of an object of any description which is in three dimensions shall not be taken to infringe the copyright in an artistic work in two dimensions if the object would not appear, to persons who are not experts in relation to objects of that description, to be a reproduction of the artistic work.

(12) The copyright in an artistic work is not infringed by the making of a subsequent artistic work by the same author, notwithstanding that part of the earlier work is reproduced in the subsequent work by the use of a mould, cast, sketch, plan, model or study made for the purpose of the earlier work, if in making the subsequent work the author does not repeat or imitate the main design of the earlier work.

(13) Where copyright subsists in a building as a work of architecture, the copyright is not infringed by any reconstruction of that building; and where a building has been constructed in accordance with architectural drawing or plans in which copyright subsists, and has been so constructed by, or with the licence of, the owner of that copyright, any subsequent reconstruction of the building by reference to those drawings or plans shall not constitute an infringement of that copyright.

(14) The provisions of this section shall apply in relation to transmission over a re-diffusion system of a work as they apply in relation to broadcasting of the work.

(15) In this section "sufficient acknowledgment" means an acknowledgment identifying the work in question by its title or other description and, unless the work is anonymous or the author has previously agreed or required that no acknowledgment of his name should be made, also identifying the author.

8.—(1) The copyright in a published literary, dramatic or musical work is not infringed by the making or supplying of a reproduction of the work by or on behalf of the person in charge of a library to which this subsection applies if—

(a) at the time when the reproduction is made, the person in charge of the library does not know the name and address of a person entitled to authorise the making of the reproduction, and could not, by reasonable inquiry, ascertain the name and address of such a person; and

Special exceptions in respect of libraries and archives

(b) the reproduction is supplied to such persons or institutions, and in accordance with such conditions, as may be prescribed.

(2) Where, at a time more than fifty years from the end of the calendar year in which the author of a literary, dramatic or musical work died, and more than one hundred years after the time, or the end of the period, at or during which the work was made—

(a) copyright subsists in the work, but the work has not been published; and

(b) the manuscript or a copy of the work is kept in a library, museum or other institution where (subject to any provisions regulating that library, museum or other institution) it is open to public inspection,

the copyright in the work is not infringed by a person who reproduces the work for purposes of research or private study, or with a view to publication.

(3) The publication of any literary, dramatic or musical work (in this subsection and subsection (4) referred to as "the new work") which incorporates the whole or any part of a work (in this subsection and subsection (4) referred to as "the old work") in respect of which the circumstances specified in subsection (2) existed immediately before that publication shall in so far as it constitutes a publication of the old work, not be treated as an infringement of the copyright in the old work or as an unauthorised publication of the old work, if—

(a) such notice as may be prescribed was given before the new work was published; and

(b) immediately before the new work was published, the identity of the owner of the copyright in the old work was not known to the publisher of the new work.

(4) Subsection (3) shall apply to any subsequent publication of the new work, either in an altered or in an unaltered form, as it applies to the first publication if—

(a) that subsequent publication does not incorporate any part of the old work which was not incorporated in the first publication, or

(b) the circumstances specified in subsection (2) and in paragraphs (a) and (b) of subsection (3) existed immediately before that subsequent publication.

(5) In so far as the publication of a work, or of part of a work,

is, by virtue of subsection (3), not to be treated as an infringement of the copyright in the work, a person who, after the publication of the work or of that part thereof, as the case may be, broadcasts the work or that part thereof, or causes it to be transmitted over a re-diffusion system, or performs it in public, or makes a record of it, does not thereby infringe the copyright in the work.

(6) In relation to any work which is accompanied by one or more artistic works provided for explaining or illustrating it (in this subsection referred to as "illustrations"), the preceding provisions of this section shall apply as if—

(a) wherever they provide that the copyright in the work is not infringed, the reference to that copyright included a reference to any copyright in any of the illustrations;

(b) in subsection (1) references to a reproduction of the work included references to a reproduction of the work together with a copy of the illustrations or any of them, and references to a reproduction of part of the work included references to a reproduction of that part of the work together with a copy of any of the illustrations which were provided for explaining or illustrating that part;

(c) in subsections (2) and (3) references to the doing of any act in relation to the work included references to the doing of that act in relation to the work together with any of the illustrations.

9.—(1) The copyright in a musical work is not infringed by a person (in this section referred to as "the manufacturer") who makes a record of the work or of an adaptation thereof in Solomon Islands, if—

(a) records of the work, or as the case may be, of a similar adaptation of the work, have previously been made in or imported into Solomon Islands for the purposes of retail sale, and were so made or imported by, or with the licence of, the owner of the copyright in the work; and

(b) before making the record, the manufacturer gave to the owner of the copyright such notice of his intention to make it as may be prescribed; and

(c) the manufacturer intends to sell the record by retail, or to supply it for the purpose of its being sold by retail by another person, or intends to use it for making other records which are to be sold by retail or supplied for that purpose; and

Special
exception in
respect of
records of
musical works

(d) in the case of a record which is sold by retail, the manufacturer pays to the owner of the copyright, in the prescribed manner and at the prescribed time, a royalty of an amount ascertained in accordance with the provisions of regulations made under this Act.

(2) Where a record comprises (with or without other material) a performance of a musical work, or of an adaptation of a musical work, in which words are sung, or are spoken incidentally to or in association with the music and either no copyright subsists in that work or if such copyright subsists, the conditions specified in subsection (1) are fulfilled in relation to that copyright, then if—

(a) the words constitute or form part of a literary or dramatic work in which copyright subsists; and

(b) such previous records as are referred to in paragraph (a) of subsections (1) were made or imported by, or with the licence of the owner of the copyright in that literary or dramatic work; and

(c) the conditions specified in paragraphs (b) and (d) of subsection (1) are fulfilled in relation to the owner of the copyright,

the making of the record shall not constitute an infringement of the copyright in the literary or dramatic work.

(3) For the purposes of this section an adaptation of a work shall be taken to be similar to an adaptation thereof contained in previous records if the two adaptations do not substantially differ in their treatment of the work, either in respect of style or (apart from any difference in numbers) in respect of the performers required for performing them.

(4) Where, for the purposes of paragraph (a) of subsection (1), the manufacturer requires to know whether such records as are mentioned in that paragraph were made or imported as mentioned therein, the manufacturer may make such inquiries as may be prescribed; and if the owner of the copyright fails to reply to those inquiries within the prescribed period, the records which were previously made or imported shall be taken to have been made or imported, as the case may be, with the licence of the owner of the copyright.

(5) Subsections (1), (2), (3) and (4) shall apply in relation to records of a part of a work as they apply in relation to records of the whole of it, but subsection (1) shall not apply—

(a) to a record of the whole of a work or adaptation

unless the previous records referred to in paragraph (a) of that subsection were records of the whole of the work or of a similar adaptation; or

(b) to a record of part of a work or adaptation unless those previous records were records of or comprising that part of the work or of a similar adaptation.

(6) In relation to musical works published before the commencement of this Act, subsections (1), (2), (3), (4) and (5) shall apply as if paragraph (a) of subsection (1), paragraph (b) of subsection (2), subsections (3) and (4) and all the words appearing after the words "the whole of it" in subsection (5) were omitted.

(7) Nothing in this section shall be construed as authorising the importation of records which are prohibited by or under any Act from importation.

10.—(1) Subject to the provisions of subsection (2), where copyright subsists in an artistic work, and a corresponding design is registered under the United Kingdom Designs (Protection) Act, it shall not be an infringement of the copyright in the work —

(a) to do anything, during the subsistence of the copyright in the registered design under the United Kingdom Designs (Protection) Act, which is within the scope of the copyright in the design;

(b) to do anything, after the copyright in the registered design has come to an end, which, if it had been done while the copyright in one design subsisted, would have been within the scope of that copyright as extended to all associated designs and articles.

(2) Where —

(a) copyright subsists in an artistic work, and proceedings are brought under this Act relating to that work; and

(b) a corresponding design has been registered under the United Kingdom Designs (Protection) Act, and the copyright in the design subsisting by virtue of that registration has not expired by effluxion of time before the commencement of those proceedings; and

(c) it is proved or admitted in the proceedings that the person registered as the proprietor of the design as not the proprietor thereof for the purposes of the United Kingdom

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designs
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Designs (Protection) Act and was so registered without the knowledge of the owner of the copyright in the artistic work, the registration shall, for the purposes of those proceedings, and subject to the provisions of subsection (3), be treated as if it was never effected, and accordingly, in relation to that registration, subsection (1) shall not apply, and nothing in the United Kingdom Designs (Protection) Act shall be construed as affording any defence to those proceedings.

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(3) Notwithstanding anything in subsection (2), if in the proceedings it is proved or admitted that any act to which the proceedings relate —

(a) was done in pursuance of an assignment made by the person registered as proprietor of the design; and

(b) was so done in good faith in reliance upon the registration, and without notice of any proceedings for the cancellation of the registration or for rectifying the entry in the register of designs relating thereto,

this shall be a good defence to those proceedings.

(4) In this section "corresponding design", in relation to an artistic work, means a design which, when applied to an article, results in a reproduction of that work.

PART III

COPYRIGHT IN SOUND RECORDINGS, CINEMATOGRAPH FILMS, BROADCASTS, ETC

11.—(1) Copyright subsists, subject to the provisions of this Act, in —

(a) every sound recording;

(b) every cinematograph film;

(c) every broadcast,

in respect of which the conditions specified in subsection (2) have been satisfied.

(2) The conditions referred to in subsection (1) are —

(a) in the case of a sound recording —

(i) that the maker thereof must have been a qualified person at the time when the recording was made; and

(ii) that the recording must have been published; and

Copyright in
sound
recordings,
cinematograph
films and
broadcasts

(iii) that the first publication of the recording must have taken place in Solomon Islands;

(b) in the case of a cinematograph film —

(i) that the maker thereof must have been a qualified person for the whole or a substantial part of the period during which the film was made; and

(ii) that the film must have been published; and

(iii) that the first publication of the film must have taken place in Solomon Islands;

(c) in the case of a broadcast, that it must have been made from a licensed broadcasting station in Solomon Islands.

(3) Copyright subsisting in a sound recording or a cinematograph film by virtue of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the recording or the film, as the case may be, is first published, and shall then expire.

(4) Copyright subsisting in a broadcast by virtue of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the broadcast is made, and shall then expire.

(5) In so far as a broadcast is a repetition (whether the first or any subsequent repetition) of a broadcast previously made as mentioned in paragraph (b) of subsection (2), and is made by broadcasting material recorded on film, records or otherwise —

(a) copyright shall not subsist therein by virtue of this section if it is made after the end of the period of fifty years from the end of the calendar year in which the previous broadcast was made; and

(b) if it is made before the end of that period any copyright subsisting therein by virtue of this section shall expire at the end of that period.

12.—(1) Copyright shall subsist, subject to the provisions of this Act, in every published edition of any literary, dramatic or musical work in the case of which —

(a) the first publication of the edition took place in Solomon Islands; or

(b) the publisher of the edition was a qualified person at the date of the first publication thereof.

Copyright in
published
editions of works

(2) Subsection (1) does not apply to an edition which reproduces the typographical arrangement of a previous edition of the same work.

(3) Subject to the provisions of this Act, the publisher of an edition shall be entitled to any copyright subsisting in the edition by virtue of this section.

(4) Copyright subsisting in an edition by virtue of this section shall continue to subsist until the end of the period of twenty-five years from the end of the calendar year in which the edition was first published, and shall then expire.

13.—(1) Subject to the provisions of this Act —

(a) the maker of a sound recording or of a cinematograph film shall be entitled to any copyright subsisting in the recording or the film, as the case may be, by virtue of this Part;

(b) the operator of the licenced broadcasting station from which a broadcast is made shall be entitled to any copyright subsisting in the broadcast by virtue of this Part.

(2) Where a person commissions the making of a sound recording, and pays or agrees to pay for it in money or money's worth and the recording is made in pursuance of that commission, that person, in the absence of any agreement to the contrary, shall, subject to the provisions of this Act, be entitled to any copyright subsisting in the recording by virtue of this Part.

(3) For the purposes of this Act —

(a) a sound recording shall be taken to be made at the time when the first record embodying the recording is produced, and the maker of a sound recording is the person who owns that record at the time when the recording is made;

(b) a cinematograph film shall be taken to include the sound embodied in any sound-track associated with the film and references to a copy of a cinematograph film shall be construed accordingly.

14.—(1) The copyright in a sound recording is infringed by any person who, not being the maker of the recording and without the licence of the maker —

(a) makes a record embodying the recording; or

(b) causes the recording to be heard in public; or

Ownership of
copyright in
sound
recordings,
cinematograph
films and
broadcasts

Infringements of
copyright in
sound
recordings,
cinematograph
films, broadcasts
and published
editions

(c) broadcasts the recording; or

(d) cause the recording to be transmitted over a re-diffusion system.

(2) The copyright in a cinematograph film is infringed by any person who, not being the maker of the film, and without the licence of the maker —

(a) makes a copy of the film; or

(b) causes the film, in so far as it consists of visual images, to be seen in public, or, in so far as it consists of sounds, to be heard in public; or

(c) broadcasts the film; or

(d) causes the film to be transmitted over a rediffusion system.

(3) The copyright in a broadcast is infringed by any person who, not being the owner of the copyright, and without the licence of the owner —

(a) in the case of a television broadcast in so far as it consists of visual images, makes, for purposes other than private purposes, a cinematograph film of it or a copy of such a film; or

(b) in the case of a sound broadcast, or of a television broadcast in so far as it consists of sounds, makes, for purposes other than private purposes, a sound recording of it or a record embodying such a recording; or

(c) in the case of a television broadcast, causes it —

(i) in so far as it consists of visual images, to be seen in public; or

(ii) in so far as it consists of sounds, to be heard in public,

if it is seen or heard by a paying audience; or

(d) re-broadcasts it,

whether any of the acts specified in this subsection is done by the reception of the broadcast or by making use of any record, print, negative, tape or other article on which the broadcast has been recorded.

(4) In relation to television broadcasts, in so far as they consist of visual images, subsection (3) shall apply to any sequence of images sufficient to be seen as a moving picture, and accordingly, for the purpose of establishing an infringement of copyright in a television broadcast, it shall not be necessary to prove

that any act referred to in paragraphs (a) or (c) or (d) of subsection (3) extended to more than one sequence of images sufficient to be seen as a moving picture.

(5) The copyright in a published edition of any literary, dramatic or musical work is infringed by any person who, not being the publisher of the edition, and without the licence of the publisher, makes by any photographic or similar process, a reproduction of the typographical arrangement of the edition.

(6) The copyright in any sound recording or in any cinematograph film, or in any broadcast, or in any published edition of a literary, dramatic or musical work is infringed by any person who, not being the owner of the copyright, and without the licence of the owner thereof —

(a) imports an article into Solomon Islands for any purpose other than his private and domestic use; or

(b) sells or lets for hire any article; or

(c) by way of trade —

(i) offers or exposes for sale or hire any article; or

(ii) exhibits any article in public,

if to his knowledge the making of that article constituted an infringement of the copyright or (in the case of an imported article) would have constituted an infringement of the copyright if the article had been made in Solomon Islands.

(7) Subsection (6) shall apply in relation to the distribution of any article —

(a) for the purposes of trade; or

(b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright in question, as it applies in relation to the sale of the article.

(8) For the purposes of subsection (3) a cinematograph film or a copy thereof, or a sound recording or a record embodying a recording, shall be taken to be made for purposes other than private purposes if it is made for —

(a) the sale or letting for hire of any copy of the film, or, as the case may be, of any record embodying the recording; or

(b) broadcasting the film or recording; or

(c) causing the film or recording to be seen or heard in public.

(9) For the purposes of paragraph (c) of subsection (3) a television broadcast shall be taken to be seen or heard by a paying audience if it is seen or heard by persons who —

(a) have been admitted for payment to the place where the broadcast is seen or heard or have been admitted for payment of a place of which that place forms a part; or

(b) have been admitted to the place where the broadcast is seen or heard in circumstances where goods or services are supplied there at prices which exceed the prices usually charged at that place and are partly attributable to the facilities afforded for seeing or hearing the broadcast.

(10) For the purposes of paragraph (a) of subsection (9) no account shall be taken —

(a) of persons admitted to the place where the broadcast is seen or heard as residents or inmates of that place; or

(b) of persons admitted to that place as members of a club or society, where the payment is for membership of the club or society and the provision of facilities for seeing or hearing television broadcasts is only incidental to the main purposes of the club or society.

(11) Subject to the provisions of subsection (5) of section 15, where by the virtue of this Part copyright subsists in a sound recording, cinematograph film, broadcast or other subject-matter, nothing in this Part shall be construed as affecting the operation of Part II in relation to any literary, dramatic, musical or artistic work from which that sound recording, cinematograph film, broadcast or other subject-matter is wholly or partly derived; and copyright subsisting by virtue of this Part shall be additional to, and independent of, any copyright subsisting by virtue of Part II.

(12) The subsistence of copyright under any provision of this Part shall not affect the operation of any other provision of this Part under which copyright can subsist.

15.—(1) The copyright subsisting in a sound recording is not infringed by a person who does in Solomon Islands any of the acts specified in subsection (1) of section 14, if —

(a) records embodying that recording, or that part of the recording, as the case may be, have previously been issued to the public in Solomon Islands; and

(b) at the time when those records were so issued, neither the records nor the container in which they were so

General
exceptions

issued bore a label or other mark indicating the year in which the recording was first published,

but this subsection shall not apply if it is shown that the records were not issued by or with the licence of the owner of the copyright, or that the owner of the copyright had taken all reasonable steps for securing that records embodying the recording or part thereof would not be issued to the public in Solomon Islands without such a label or mark either on the records themselves or on their containers.

(2) Where a sound recording is heard in public —

(a) at any premises where persons reside or sleep, as part of the amenities provided wholly or mainly for residents or inmates of the premises; or

(b) as part of the activities of, or for the benefit of, a club, society or other organisation which is not established or conducted for profit and whose main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare,

the act of causing the recording to be so heard shall not constitute an infringement of the copyright therein.

(3) Subsection (2) shall not apply —

(a) in the case of such premises as are mentioned in paragraph (a) of that subsection, if a special charge is made for admission to the part of the premises where the recording is to be heard; or

(b) in the case of such an organisation as is mentioned in paragraph (b) of that subsection, if a charge is made for admission to the place where the recording is to be heard, and any of the proceeds of the charge are applied otherwise than for the purposes of the organisation.

(4) The copyright subsisting in a sound recording, or in a cinematograph film or in a broadcast is not infringed by doing anything in relation to the recording or the film or the broadcast, as the case may be, for the purposes of a judicial proceeding.

(5) Where by virtue of this Part copyright has subsisted in a cinematograph film, a person who, after that copyright has expired, causes the film to be seen or to be seen and heard, in public, does not thereby infringe any copyright subsisting by virtue of Part II in any literary, dramatic, musical or artistic work.

(6) Where the sounds embodied in any sound-track associated

with a cinematograph film are also embodied in a record, other than such a sound-track or a record derived (directly or indirectly) from such a sound-track, the copyright in the film is not infringed by any use made of that record.

(7) The copyright in a published edition of any literary, dramatic or musical work is not infringed by the making, by or on behalf of the person in charge of a library, of a reproduction of the typographical arrangement of the edition, if that library —

(a) is not established or conducted for profit; and

(b) is in a class declared by the Minister by order to be public library for the purposes of this Act.

PART IV

REMEDIES FOR INFRINGEMENTS OF COPYRIGHT

Action by owner
of copyright for
infringement

16.—(1) Subject to the provisions of this Act, an infringement of copyright shall be actionable at the suit of the owner of the copyright; and 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 any corresponding proceedings in respect of infringements of other proprietary rights.

(2) Where in an action for infringement of copyright it is proved or admitted —

(a) that an infringement was committed; but

(b) that at the time of the infringement the defendant was not aware, and had no reasonable grounds for suspecting, that copyright subsisted in the work or other subject-matter to which the action relates,

the plaintiff shall not be entitled under this section to any damages against the defendant in respect of the infringement, but shall be entitled to an account of profits in respect of the infringement whether any other relief is granted under this section or not.

(3) Where in an action under this section an infringement of copyright is proved or admitted, and the court, having regard (in addition to all other material considerations) to —

(a) the flagrancy of the infringement; and

(b) any benefit shown to have accrued to the defendant by reason of the infringement,

is satisfied that effective relief would not otherwise be available to the plaintiff, the court, in assessing damages for the infringe-

ment, shall have power to award such additional damages by virtue of this subsection as the court may consider appropriate in the circumstances.

(4) In an action for infringement of copyright in respect of the construction of a building, no injunction or other order shall be made —

(a) after the construction of the building has begun, so as to prevent it from being completed; or

(b) so as to require the building, in so far as it has been constructed, to be demolished.

(5) In this Part “action” includes a counterclaim, and references to the plaintiff and the defendant in an action shall be construed accordingly.

17.—(1) Subject to the provisions of this Act, the owner of any copyright shall be entitled to all such rights and remedies, in respect of the conversion or detention by any person of any infringing copy, or of any plate used or intended to be used for making infringing copies, as he would be entitled to if he were the owner of every such copy or plate and had been the owner thereof since the time when it was made.

Rights of owner
of copyright in
respect of
infringing copies,
etc

(2) A plaintiff shall not be entitled by virtue of this section to any damages or to any other pecuniary remedy (except costs) if it is proved or admitted that, at the time of the conversion or detention referred to in subsection (1) —

(a) the defendant was not aware, and had no reasonable grounds for suspecting, that copyright subsisted in the work or other subject-matter to which the action relates, or

(b) where the articles converted or detained were infringing copies, the defendant believed, and had reasonable grounds for believing, that they were not infringing copies; or

(c) where the article converted or detained was a plate used or intended to be used for making any articles, the defendant believed, and had reasonable grounds for believing, that the articles so made or intended to be made were not, or, as the case may be, would not be, infringing copies.

(3) In this Part “infringing copy” —

(a) in relation to a literary, dramatic, musical or artistic work, or to a published edition of any literary, dramatic or

musical work referred to in section 12, means a reproduction in a form other than that of a cinematograph film;

(b) in relation to a sound recording, means a record embodying that recording;

(c) in relation to a cinematograph film, means a copy of the film;

(d) in relation to a broadcast, means a copy of a cinematograph film of it or a record embodying a sound recording of it,

being (in any such case) an article the making of which constituted an infringement of the copyright in the work, edition, recording film or broadcast, or, in the case of an imported article, would have constituted an infringement of that copyright if the article had been made in Solomon Islands; and "plate" includes any stereotype, stone, block, mould, matrix, transfer negative or other appliance.

Proceedings in
the case of
copyright subject
to exclusive
licence

18.—(1) The provisions of this section shall have effect as to proceedings in the case of any copyright in respect of which an exclusive licence has been granted and is in force at the time of the events to which the proceedings relate.

(2) Subject to the provisions of subsections (3), (4), (5), (6), (7), and (8) —

(a) the exclusive licensee shall (except against the owner of the copyright) have the same rights of action, and be entitled to the same remedies, under section 16 as if the licence had been an assignment, with those rights and remedies shall be concurrent with the rights and remedies of the owner of the copyright under that section;

(b) the exclusive licensee shall (except against the owner of the copyright) have the same rights of action, and be entitled to the same remedies, by virtue of section 17 as if the licence had been an assignment;

(c) the owner of the copyright shall not have any rights of action, or be entitled to any remedies, by virtue of section 17 which he would not have had or been entitled to if the licence had been an assignment.

(3) Where an action is brought by the owner of the copyright or by the exclusive licensee, and the action, in so far as it is brought under section 16, relates (wholly or partly) to an infringement in respect of which they have concurrent rights of action under that section, the owner or licensee, as the case may

be, shall not be entitled, except with the leave of the court, to proceed with the action, in so far as it is brought under that section and relates to that infringement, 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) In any action brought by the exclusive licensee by virtue of this section, any defence which would have been available to a defendant in the action, if this section had not been enacted and the action had been brought by the owner of the copyright, shall be available to that defendant as against the exclusive licensee.

(5) Where an action is brought in the circumstances mentioned in subsection (3), and the owner of the copyright and the exclusive licensee are not both plaintiffs in the action, the court, in assessing damages in respect of any such infringement as is mentioned in that subsection —

(a) if the plaintiff is the exclusive licensee, shall take into account any liabilities, in respect of royalties or otherwise, to which the licence is subject; and

(b) whether the plaintiff is the owner of the copyright or the exclusive licensee, shall take into account any pecuniary remedy already awarded to the other party under section 16 in respect of the infringement, or, as the case may require, any right of action exercisable by the other party under that section in respect thereof.

(6) Where an action, in so far as it is brought under section 16, relates (wholly or partly) to an infringement in respect of which the owner of the copyright and the exclusive licensee have concurrent rights of action under that section, and in that action, whether they are both parties to it or not an amount of profits is directed to be taken in respect of that infringement, then, subject to any agreement of which the court is aware, whereby the application of those profits is determined as between the owner of the copyright and the exclusive licensee, the court shall apportion the profits between them as the court may consider just, and shall give such directions as the court may consider appropriate for giving effect to that apportionment.

(7) In an action brought by the owner of the copyright or by the exclusive licensee —

(a) no judgment or order for the payment of damages in respect of an infringement of copyright shall be given or made under section 16 if a final judgment or order has been

given or made awarding an account of profits to the other party under that section in respect of the same infringement; and

(b) no judgment or order for an account of profits in respect of an infringement of copyright shall be given or made under that section if a final judgment or order has been given or made awarding either damages or an account of profits to the other party under that section in respect of the same infringement.

(8) Where, in an action brought in the circumstances mentioned in subsection (3), whether by the owner of the copyright or by the exclusive licensee, the other party is not joined as a plaintiff (either at the commencement of the action or subsequently), but is added as a defendant, he shall not be liable for any costs in the action unless he enters an appearance and takes part in the proceedings.

(9) In this section —

“exclusive licence” means a licence in writing, signed by or on behalf of an owner or prospective owner of copyright, authorising the licensee, to the exclusion of all other persons, including the grantor of the licence, to exercise a right which by virtue of this Act would (apart from the licence) be exercisable exclusively by the owner of the copyright, and “exclusive licensee” shall be construed accordingly;

“the other party”, in relation to the owner of the copyright, means the exclusive licensee, and, in relation to the exclusive licensee, means the owner of the copyright;

“if the licence had been an assignment” means if, instead of the licence there had been granted, subject to terms and conditions corresponding as nearly as may be with those subject to which the licence was granted, an assignment of the copyright in respect of its application to the doing, at the places and times authorised by the licence, of the acts as authorised.

19.—(1) In any action brought by virtue of this Part —

(a) copyright shall be presumed to subsist in the work or other subject-matter to which the action relates if the defendant does not put in issue the question whether copyright subsists therein; and

(b) where the subsistence of the copyright is proved or admitted, or is presumed in pursuance of paragraph (a), the

Presumptions in
copyright actions

plaintiff shall be presumed to be the owner of the copyright if he claims to be the owner of the copyright and the defendant does not put in issue the question of the ownership thereof.

(2) Subject to the provisions of subsection (1), where, in the case of a literary, dramatic, musical or artistic work, a name purporting to be that of the author appeared on copies of the work as published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appeared (if it was his true name or a name by which he was commonly known) shall, in any action brought by virtue of this Part, be presumed, unless the contrary is proved—

(a) to be the author of the work; and

(b) to have made the work in circumstances not falling within subsection (2), subsection (3) or subsection (4) of section 5.

(3) In the case of a work alleged to be a work of joint authorship, subsection (2) shall apply in relation to each person alleged to be one of the authors of the work as if references in that subsection to the author were references to one of the authors.

(4) Where, in an action brought by virtue of this Part in relation to a literary, dramatic, musical or artistic work, subsection (2) does not apply but it is established—

(a) that the work was first published in Solomon Islands, and was so published within the period of fifty years ending with the beginning of the calendar year in which the action was brought; and

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

then, unless the contrary is shown, copyright shall be presumed to subsist in the work and the person whose name so appeared shall be presumed to have been the owner of the copyright at the time of the publication.

(5) Where in an action brought by virtue of this Part in relation to a literary, dramatic, musical or artistic work it is proved or admitted that the author of the work is dead—

(a) the work shall be presumed to be an original work unless the contrary is proved; and

(b) if it is alleged by the plaintiff that a publication specified in the allegation was the first publication of the work and that it took place in a country and on a date so speci-

fied, that publication shall be presumed, unless the contrary is proved, to have been the first publication of the work, and to have taken place in that country and on that date.

(6) Paragraphs (a) and (b) of subsection (5) shall apply where a work has been published and—

(a) the publication was anonymous, or was under a name alleged by the plaintiff to have been a pseudonym; and

(b) it is not shown that the work has ever been published under the true name of the author, or under the name by which he was commonly known, or that it is possible for a person without previous knowledge of the facts to ascertain the identity of the author by reasonable inquiry,

as those paragraphs apply in a case where it is proved that the author is dead.

(7) In any action brought by virtue of this Part in relation to copyright in a sound recording, if records embodying that recording or part thereof have been issued to the public, and at the time when those records were so issued they bore a label or other mark containing a statement—

(a) that a person named on the label or mark was the maker of the sound recording; or

(b) that the recording was first published in a year specified on the label or mark; or

(c) that the recording was first published in a country specified on the label or mark,

that label or mark shall be sufficient evidence of the facts so stated except in so far as the contrary is proved.

(8) For the purposes of subsection (4) a fact shall be taken to be established if it is proved or admitted, or if it is presumed pursuant to the provisions of this section.

Penalties in respect of dealings which infringe copyright

* 20.—(1) Any person who, at a time when copyright subsists, by virtue of this Act, in a work or other subject-matter—

(a) makes for sale or hire; or

(b) sells or lets for hire, or by way of trade offers or exposes for sale or hire; or

(c) by way of trade exhibits in public; or

(d) imports into Solomon Islands for purposes other than his private and domestic use,

any article which he knows or has reason to believe is an infringing copy of that work or subject-matter, shall be guilty of an offence.

(2) Any person who, at a time when copyright subsists, by virtue of this Act, in a work or other subject-matter, distributes—

(a) for purposes of trade, or

(b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright,

articles which that person knows or has reason to believe to be infringing copies of that work or subject-matter, shall be guilty of an offence.

(3) Any person who, at a time when copyright subsists, by virtue of this Act, in a work or other subject-matter, makes or has in his possession a plate, knowing or having reason to believe that it is to be used for making infringing copies of that work or subject-matter, shall be guilty of an offence.

(4) Any person who causes a literary, dramatic or musical work to be performed in public, knowing or having reason to believe that copyright subsists in the work and that the performance constitutes an infringement of the copyright, shall be guilty of an offence.

(5) Any person who at a time when copyright subsists in a sound recording or in a cinematograph film, by way of trade has in his possession any article which he knows or has reason to believe to be an infringing copy of the sound recording or cinematograph film, as the case may be, shall be guilty of an offence.

(6) Any person who is guilty of an offence under subsection (1) or subsection (2), shall be liable on summary conviction before a Magistrate in the case of a first conviction, to a fine not exceeding one hundred dollars for each article to which the offence relates, and in the case of any subsequent conviction, to such a fine, or to imprisonment for a term not exceeding twelve months:

Provided that a fine imposed by virtue of this subsection shall not exceed four thousand dollars in respect of articles comprised in the same transaction.

(7) Any person who is guilty of an offence under subsections (3), (4) or (5) shall be liable on summary conviction before a Magistrate, in the case of a first conviction, to a fine not exceeding one thousand dollars, and in the case of any subsequent

conviction, to such a fine, or to imprisonment for a term not exceeding twelve months.

(8) The court before which a person is charged with an offence under this section may, whether he is convicted of the offence or not, order that any article in his possession which appears to be an infringing copy, or to be a plate used or intended to be used for making infringing copies, shall be destroyed or delivered up to the owner of the copyright in question or otherwise dealt with as the court may think fit.

Search warrants
etc

21.—(1) Where, on information on oath given by a police officer, a Magistrate is satisfied that there are reasonable grounds for believing—

(a) that an offence under subsections (1) (a) or (d) or (2) of section 20 relating to an infringing copy of a sound recording or a cinematograph film has been or is about to be committed in any premises; and

(b) that evidence that the offence has been or is about to be committed is in those premises,

he may issue a warrant authorising a police officer to enter and search the premises, using such reasonable force as is necessary.

(2) In executing a warrant issued under this section a police officer may seize any article if he reasonably believes that it is evidence that an offence under subsections (1), (2) or (5) of section 20 relating to an infringing copy of a sound recording or a cinematograph film has been or is about to be committed.

(3) In this section “premises” includes land, buildings, movable structures, vehicles, vessels, aircraft and hovercraft.

Obstruction of
police officer

22. Without prejudice to any other law, any person who—

(a) wilfully obstructs a police officer in the exercise of his powers or the performance of his duties under section 21; or

(b) wilfully fails to comply with any requirement properly made to him by a police officer; or

(c) without reasonable excuse, fails to give such police officer any other assistance which he may reasonably require to be given for the purpose of exercising his powers or performing his duties under section 21,

shall be guilty of an offence and shall be liable on conviction to a fine of five hundred dollars or to imprisonment for three months.

23.—(1) Without prejudice to the provisions of section 20, any person who for purposes of trade or business has in his possession—

(a) any infringing copy of a work; or

(b) any other subject-matter in which copyright subsists under this Act,

shall, unless he proves to the satisfaction of the court that he did not know and that he had no reason to believe that it was an infringing copy of any such work or other subject-matter, be guilty of an offence and shall be liable on conviction to a fine of two hundred dollars in respect of each such infringing copy or to imprisonment for three months.

(2) Without prejudice to the provisions of section 20, any person who for the purposes of trade or business has in his possession any plate used or intended to be used for making an infringing copy of any work or other subject-matter in which copyright subsists under this Act shall, unless he proves to the satisfaction of the court that he did not know and that he had no reason to believe that the plate was used or intended to be used for making an infringing copy of any such work or other subject-matter, be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars or to imprisonment for one year.

24.—(1) This section applies, in the case of a work, to any copy made outside Solomon Islands which would, if it has been made in Solomon Islands, be an infringing copy of the work.

(2) The owner of the copyright in any published literary, dramatic or musical work may give notice in writing to the Comptroller of Customs and Excise—

(a) that he is the owner of the copyright in the work; and

(b) that he requests the Comptroller of Customs and Excise to treat as prohibited goods, during a period specified in the notice, copies of the work to which this section applies.

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

(4) Subject to the provisions of subsections (5) and (6), where a notice has been given under subsection (2) in respect of a work and has not been withdrawn, the importation into Solomon Islands, at a time before the end of the period specified in the

Offences in
connection with
infringing copies

Provision for
restricting
importation of
copies

notice, of any copy of the work to which this section applies shall be prohibited.

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

(6) Any person giving a notice under subsection (2) shall satisfy such requirements relating to—

- (a) the form of the notice;
- (b) the furnishing of such evidence;
- (c) the payment of such fees;
- (d) the giving of such security;
- (e) the indemnification of the Comptroller of Customs and Excise;
- (f) such incidental or supplementary matters,

as may be prescribed.

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(7) Notwithstanding anything in the Customs and Excise Act, a person shall not be liable to any penalty under that Act, other than forfeiture of the goods, by reason of the fact that any goods are treated as prohibited goods in accordance with this section.

PART V

APPLICATION IN RELATION TO OTHER COUNTRIES AND TO INTERNATIONAL ORGANISATIONS

Power to apply provisions of this Act in relation to other countries

25.—(1) Subject to the provisions of subsection (3) the Minister may by order provide that, in relation to any country specified in the order, any of the provisions of this Act so specified shall apply—

- (a) in relation to literary, dramatic, musical or artistic works, sound recordings, cinematograph films or editions first published in that country as they apply in relation to literary, dramatic, musical or artistic works, sound recordings, cinematograph films or editions first published in Solomon Islands;
- (b) in relation to persons who, at a material time, are citizens or subjects of that country as they apply in relation to persons who, at such a time, are citizens of Solomon Islands;
- (c) in relation to persons who, at a material time, are domiciled or resident in that country as they apply in

relation to persons who, at such a time, are domiciled or resident in Solomon Islands;

(d) in relation to bodies incorporated by or under the laws of that country as they apply in relation to bodies incorporated by or under the laws of Solomon Islands;

(e) in relation to broadcasts made from places in that country by persons permitted or authorised by or under the laws of that country to make those broadcasts, as they apply in relation to broadcasts made from places in Solomon Islands by persons permitted or authorised by or under the laws of Solomon Islands to make those broadcasts.

(2) An order made under this section applying any provision of this Act in relation to any country other than Solomon Islands 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 subject-matter or such other classes of cases, as may be so specified.

(3) An order shall not be made under this section applying any provision of this Act in relation to any country which is not a party to a Convention relating to copyright to which Solomon Islands is also a party, unless the Minister is satisfied that in respect of the class of works or other subject-matter to which those provisions relate, provision has been or will be made under the laws of that country whereby adequate protection will be given to owners of copyrights under this Act.

26.—(1) Where it appears to the Minister that it is expedient that the provisions of this section should apply to any organisation of which two or more sovereign Powers, or the governments thereof, are members, he may by order declare that organisation to be an organisation to which this section applies.

International organisations

(2) Where an original literary, dramatic, musical or artistic work is made by or under the direction or control of an organisation to which this section applies in such circumstances that—

- (a) copyright would not, except by virtue of this subsection subsist in the work; but

(b) if the author of the work had been a citizen of Solomon Islands at the time when it was made, copyright would have subsisted in the work immediately after it was made and would thereupon have vested in the organisation,

copyright shall subsist in the work as if the author had been a citizen of Solomon Islands when it was made, that copyright shall continue to subsist so long as the work remains unpublished, and the organisation shall, subject to the provisions of this Act, be entitled to the copyright.

(3) Where an original literary, dramatic, musical or artistic work is first published by or under the direction or control of an organisation 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 Solomon Islands, the organisation would have been entitled to the copyright in the work,

copyright shall subsist in the work (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) as if it had been first published in Solomon Islands, that copyright shall subsist until the end of the period of fifty years from the end of the calendar year in which the work was first published, and the organisation shall, subject to the provisions of this Act, be entitled to that copyright.

(4) The provisions of Part II, except those provisions thereof relating to the subsistence, duration of ownership of copyright, shall apply in relation to copyright subsisting by virtue of this section as they apply in relation to copyright subsisting by virtue of Part II.

(5) An organisation to which this section applies which otherwise has not or at some material time otherwise had 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.

27.—(1) If it appears to the Minister that the laws of a country fail to give adequate protection to Solomon Islanders' works to which this section applies, or fail to give adequate protection in the case of one or more classes of such works, whether the lack of protection relates to the nature of the work or the country of its author or both, the Minister may by order provide, in relation to the country first mentioned, that either generally or in such cases as are specified in the order, copyright under this Act shall not subsist in works to which this section applies which were first published after a date specified in the order if at the time of their first publication the authors thereof were—

(a) citizens or subjects of that country, not being at that time persons domiciled or resident in Solomon Islands; or

(b) bodies incorporated under the laws of that country.

(2) The Minister shall, in making an order under this section, have regard to the nature and extent of the lack of protection for Solomon Islanders' works in consequence of which the order is being made.

(3) This section applies to literary, dramatic, musical and artistic works, sound recordings and cinematograph films.

(4) In this section—

“author”, in relation to a sound recording or a cinematograph film, means the maker of the recording or film;

“Solomon Islander's work” means a work of which the author was, at the time when it was made, a qualified person for the purposes of this Act.

PART VI

✱ TRANSMISSION OF COPYRIGHT

28.—(1) Subject to the provisions of this section, copyright shall be transmissible by assignment, by testamentary disposition, or by operation of law, as personal or movable property.

(2) An assignment of copyright may be limited—

(a) so as to apply to one or more, but not all, of the classes of acts which, by virtue of this Act the owner of the copyright has the exclusive right to do;

(b) so as to apply to any one or more, but not all, of the countries in relation to which the owner of the copyright has by virtue of this Act the exclusive right;

Denial of copyright to citizens of countries not giving adequate protection to Solomon Islanders' works

Transmission of copyright

(c) so as to apply to part, but not the whole, of the period for which the copyright is to subsist, and references in this Act to a partial assignment are references to an assignment so limited.

(3) No assignment of copyright, whether total or partial, shall have effect unless it is in writing signed by or on behalf of the assignor.

(4) A licence granted in respect of any copyright by the person who, in relation to the matters to which the licence relates is the owner of the copyright shall be binding upon every successor in title to his interest in the 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 in relation to any copyright, to the doing of anything with, or, as the case may be, without, the licence of the owner of the copyright shall be construed accordingly.

Copyright to pass under will with unpublished work

29. Where under a bequest (whether specific or general) a person is entitled, beneficially or otherwise, to the manuscript of a literary, dramatic or musical work, or to an artistic work, and the work was not published before the death of the testator, the bequest shall, unless a contrary intention is indicated in the testator's will or a codicil thereto, 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.

Prospective ownership of copyright

30.—(1) Where by an agreement in relation to any future copyright, and signed by or on behalf of the prospective owner of the copyright, the prospective owner purports to assign the future copyright totally or partially, to another person (in this subsection referred to as "the assignee"), then if, on the coming into existence of the copyright, the assignee or a person claiming under him would, apart from this subsection, be entitled as against all other persons to require the copyright to be vested in him, totally or partially, as the case may be, the copyright shall, on its coming into existence, vest in the assignee or his successor in title accordingly by virtue of this subsection and without further assurance.

(2) Where at the time when any copyright comes into existence, the person who, if he were then living, would be entitled to the copyright is dead, the copyright shall devolve as if it had subsisted immediately before his death and he had then been the owner of the copyright.

(3) Subsection (4) of section 28 shall apply in relation to a licence granted by a prospective owner of any copyright as it applies in relation to a licence granted by the owner of a subsisting copyright, as if any reference in that subsection to the owner's interest in the copyright included a reference to his prospective interest therein.

(4) In this Act "future copyright" means copyright which will or may come into existence in respect of any future work or class of works or other subject-matter, or in any 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 such an agreement as is mentioned in subsection (1).

PART VII

WORKS, RECORDINGS AND FILMS MADE BY OR UNDER THE DIRECTION OF THE GOVERNMENT

31.—(1) Where an original literary, dramatic, musical or artistic work is made by or under the direction or control of the Government copyright shall subsist in the work by virtue of this section if copyright would not, but for this section, subsist in the work.

Copyright in original works, etc., made or first published by or under direction of the Government

(2) The Government shall be the owner of the copyright in an original literary, dramatic, musical or artistic work first published in Solomon Islands if first published by or under the direction or control of the Government.

(3) Copyright in a literary, dramatic or musical work of which the Government is owner by virtue of this section shall—

(a) where the work is unpublished, continue to subsist so long as the work remains unpublished; and

(b) where the work is published, subsist, or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist, until the end of the period of fifty years from the end of the calendar year in which the work is first published, and shall then expire.

(4) Copyright in an artistic work of which the Government is the owner by virtue of this section shall continue to subsist—

(a) where the work is an engraving or a photograph, until the end of the period of fifty years from the end of the calendar year in which the engraving or photograph is first published;

(b) in the case of any other artistic work, until the end of the period of fifty years from the end of the calendar year in which the work was made, and shall then expire.

(5) Where a sound recording or cinematograph film is made by or under the direction or control of the Government, copyright shall subsist in the recording or film by virtue of this section if copyright would not, but for this section, subsist therein, and the Government shall be the owner of the copyright.

(6) Copyright in a sound recording or cinematograph film of which the Government is the 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 recording or film is first published and shall then expire.

(7) Subsections (1), (2), (3), (4), (5) and (6) shall have effect subject to any agreement made by or on behalf of the Government with the author of the work or the maker of the sound recording or cinematograph film, as the case may be, by which it is agreed that the copyright in the work, recording or film shall vest in the author or maker, or in another person specified in the agreement.

(8) Part II, with the exception of the provisions thereof relating to the subsistence, duration and ownership of copyright shall apply in relation to copyright subsisting by virtue of this section in a literary, dramatic, musical or artistic work as it applies in relation to copyright subsisting by virtue of that Part in such a work.

(9) Part III, with the exception of the provisions thereof relating to the subsistence and ownership of copyright shall apply in relation to copyright subsisting by virtue of this section in a sound recording or cinematograph film as it applies in relation to copyright subsisting by virtue of that Part in a sound recording or cinematograph film.

PART VIII

REGISTRATION OF COPYRIGHT

Registrar and
Register of
Copyright

32.—(1) For the purposes of this Act there shall be a Registrar of Copyright, whose office shall be a public office.

(2) The Registrar of Copyright shall keep a book to be called the Register of Copyright.

33.—(1) The person entitled to the copyright in any work or other subject-matter by virtue of this Act or any person acting on his behalf may, at any time before the expiration of the copyright, apply to the Registrar of Copyright for registration of the copyright.

Application for
registration

(2) Every application for registration of copyright shall be made in such form and be accompanied by such documents and by evidence of the payment of such fee, as may be prescribed.

(3) The Registrar of Copyright may, upon receipt of any application, request the applicant to furnish such additional information as the Registrar may consider to be relevant to the application.

34.—(1) Where, as respects an application for registration of the copyright in any work or other subject-matter, the Registrar of Copyright is satisfied that—

Registration of
copyright, and
the effect thereof

(a) there has been compliance with the requirements of this Act and any regulations made thereunder; and

(b) the person by whom, or on whose behalf, the application is made is entitled to copyright subsisting in the work or other subject-matter by virtue of this Act,

the Registrar shall register the copyright by entering the particulars thereof in the Register of Copyright, and shall issue to the applicant a certificate of registration in the prescribed form.

(2) In any legal proceedings relating to copyright in any work or other subject-matter, a certificate of registration issued under this section shall be prima facie evidence of the facts stated in the certificate.

PART IX

MISCELLANEOUS

35.—(1) The copyright in a literary, dramatic, musical or artistic work is not infringed by reason only that the work is reproduced, or an adaptation of the work is made or reproduced—

Use of copyright
material for
educational
instruction

(a) in the course of educational instruction, where the work is reproduced or the adaptation is made or reproduced by a teacher or student otherwise than by the use of an appliance designed for the production of the multiple copies; or

(b) as part of the questions to be answered in an examination, or in an answer to such a question.

(2) For the purposes of sections 6(2) and 14(6), in determining whether the making of an article constituted an infringement of copyright, subsection (1) shall be disregarded.

Public records

36. Where any work in which copyright subsists, or a reproduction of any such work, is comprised in any public records which are under the charge of the Government Archivist and are open to public inspection, the copyright in the work is not infringed by the making, or the supplying to any person, of any reproduction of the work by or under the direction of the Government Archivist.

False attribution of authorship

37.—(1) A person (in this section referred to as “the offended person”) may, by civil action, recover damages and be granted other relief against any other person (in this section referred to as “the offender”) who, without the authority in writing of the offended person—

(a) inserts or affixes the name of the offended person in or on a literary, dramatic, musical or artistic work of which he is not the author, or in or on a reproduction of the work, in such a way as to imply that the offended person is the author of the work; or

(b) publishes, or sells, or lets for hire, or way of trade exhibits in public, a literary, dramatic, musical or artistic work in or on which the offended persons’ name has been inserted to affixed, if to the offender’s knowledge the offended person is not the author of the work; or

(c) does any of the acts mentioned in paragraph (b) in relation to, or distributes, reproductions of a literary, dramatic, musical or artistic work, being reproductions in or on which the offended person’s name has been so inserted or affixed, if to the offender’s knowledge the offended person is not the author of the work; or

(d) performs in public, or broadcasts, a literary, dramatic or musical work of which the offended person is not the author, as being a work of which he is the author, if to the offender’s knowledge the offended person is not the author of the work.

(2) Subsection (1) shall apply where, contrary to the fact, a literary, dramatic, musical or artistic work is represented as

being an adaptation of the work of any person as it applies where a work is so represented as being the work of that person.

(3) The author of an artistic work which has been altered after he parted with the possession of it may, by civil action, recover damages and be granted other relief against any person who, without the authority in writing of the author—

(a) publishes, sells or lets for hire, or by way of trade offers or exposes for sale or hire the work so altered, as being the unaltered work of the author; or

(b) publishes, sells or lets for hire, or by way of trade offers or exposes for sale or hire a reproduction of the work as so altered, as being a reproduction of the unaltered work of the author,

if to the knowledge of that person it is not the unaltered work or a reproduction of the unaltered work, as the case may be, of the author.

(4) The author of an artistic work in which copyright subsists may, by civil action, recover damages and be granted other relief against any person who—

(a) publishes, or sells or lets for hire, or by way of trade offers or exposes for sale or hire, or by way of trade exhibits in public, reproductions of the work, as being reproductions made by the author of the work; or

(b) distributes reproductions of the work as being reproductions made by the author of the work,

if, in any such case, the reproductions were to his knowledge not made by the author.

(5) Any damages recovered under this section by personal representatives, in respect of anything done in relation to a person after his death, shall devolve as part of his estate as if the right of action had subsisted and had been vested in him immediately before his death.

(6) Nothing in this section shall derogate from any right of action or other remedy, whether civil or criminal, in proceedings instituted otherwise than by virtue of this section, but this section shall not be construed as requiring any damages recovered by virtue of this section to be disregarded in assessing damages in any proceedings instituted otherwise than by virtue of this section and arising out of the same transaction.

(7) Subsections (1), (2) and (3) shall apply in respect of anything done, in relation to a person after his death as if any

reference to the authority in writing of that person were a reference to authority in writing given by him or by his personal representatives, but nothing in those subsections shall apply to anything done in relation to a person more than twenty years after his death.

(8) Subsections (1), (2), (3) and (4) do not apply to any acts mentioned in those subsections which were done outside Solomon Islands.

(9) In this section "name" includes initials or a monogram.

Regulations

38.—(1) The Minister may make regulations generally for giving effect to the provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations—

(a) prescribing the rate of royalty which shall be paid to the owners of copyright, and the manner of ascertaining the amount of royalty payable to any of those owners;

(b) prescribing anything which may be, or is required by this Act to be, prescribed.

(2) The Minister may also make regulations prescribing, in respect of any work of other subject-matter in which copyright subsisted by virtue of the Copyright Act 1911 (of the United Kingdom) and continues to subsist after the commencement of this Act, new rates or amounts of royalty instead of any rates or amounts prescribed for that work or other subject-matter by or under the said Copyright Act, 1911.

Repeals and Savings

39.—(1) The Copyright Regulations (Cap. 92 of the 1961 Revised Edition) are hereby repealed.

(2) The Copyright Act, 1911 (of the United Kingdom), (applied by Order in Council dated 24th June, 1912) in so far as it is part of the law of Solomon Islands, is hereby repealed.

(3) Notwithstanding the repeal of the Copyright Act, 1911, the importation of copies in any work which is prohibited under section 14 of the repealed Act, which is in force on the date of commencement of this Act, shall continue in force until such time as the Minister by order revokes, amends, or rescinds such prohibition.

(No Subsidiary Legislation)

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