

THE COPYRIGHT ORDINANCE, 1962

ORDINANCE NO. XXXIV OF 1962 (2nd June, 1962).

An Ordinance to amend and consolidate the law relating to Copyright.

Whereas it is expedient to amend and consolidate the law relating to Copyright ;

NOW, THEREFORE, in pursuance of the proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY.

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Copyright Ordinance, 1962.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force on such date (a) as the Government may, by notification in the official gazette, appoint.

2. **Definition.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “adaptation” means,—

(i) in relation to a dramatic work, the conversion of the work into a non-dramatic work;

(ii) in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise;

(iii) in relation to a literary or dramatic work, any abridgement of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; and

(iv) in relation to a musical work, any arrangement or transcription of the work;

(b) “architectural work of art” means any building having an artistic character or design or any model of such building;

(a) i. e. the 27th day of February, 1967.

- (c) "artistic work" means,—
- (i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph whether or not any such work possesses artistic quality;
 - (ii) an architectural work of art; and
 - (iii) any other work of artistic craftsmanship;
- (d) "author" means,—
- (i) in relation to a literary or dramatic work, the author of the work;
 - (ii) in relation to a musical work, the composer;
 - (iii) in relation to an artistic work other than a photograph, the artist;
 - (iv) in relation to a photograph, the person taking the photograph;
 - (v) in relation to a cinematographic work, the owner of the work at the time of its completion; and
 - (vi) in relation to a record, the owner of the original plate from which the record is made at the time of the making of the plate;
- (e) "Bangalee work" means a literary, dramatic, musical or artistic work the author of which is a citizen of Bangladesh, and includes a cinematographic work or a record made or manufactured in Bangladesh;
- (f) "Board" means the Copyright Board constituted under section 45;
- (g) "Book" includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan, separately printed or lithographed, but does not include a newspaper;
- (h) "broadcast" means communication to the public by any means of radio-diffusion including telecast or by wire or by both, and "broadcasting" shall be construed accordingly;
- (i) "Broadcasting Authority" means any person who, or any authority which, operates a broadcast transmitting station;
- (j) "building" includes any structure;
- (k) "calendar year" means the year commencing on the 1st day of January;
- (l) "cinematographic work" means any sequence of visual images fixed on material of any description (whether translucent or not) so as to be capable of being shown as a moving picture and of being the subject of reproduction, whether silent or accompanied by sound;
- (m) "copy" means a reproduction in a written form or in the form of a sound recording or cinematographic work or in any other material form, whether in two or three dimensions;
- (n) "copyright" means copyright under this Ordinance;
- (o) "delivery" in relation to a lecture, includes delivery by means of any mechanical instrument or by broadcast or telecast;

- (p) "dramatic work" includes any piece for recitation, choreographic work or entertainment in dump show, the scenic arrangement or acting form of which is fixed in writing or otherwise but does not include a cinematographic work;
- (q) "engravings" include etchings, lithographs, wood-cuts, prints and other similar works, not being photographs;
- (r) "exclusive licence" means a licence which confers on the licensee and persons authorized by him, to the exclusion of all other persons (including the owner of the copyright), any right comprised in the copyright in a work and "exclusive licensee" shall be construed accordingly;
- (s) "fixation" means the incorporation of sounds or images or both in a device by means of which they can later be made aurally or visually perceivable;
- (t) "Government work" means a work which is made or published by or under the direction or control of,—
- (i) the government or any department of the government; or
 - (ii) any court, tribunal or other judicial or legislative authority in Bangladesh;
- (u) "infringing copy" means,—
- (i) in relation to a literary, dramatic, musical or artistic work, a reproduction in any material form of the whole work or a part thereof of otherwise than in the form of a cinematographic work;
 - (ii) in relation to a cinematographic work, a copy of the work or a record embodying the whole or a part of the recording in any part of the sound-track associated with the film;
 - (iii) in relation to a record, any record embodying the same recording either in its original form or in any form derived from the original; and
 - (iv) in relation to a programme in which a broadcast reproduction right subsists under section 24, a cinematographic work or a record, recording the whole programme or a part thereof,

if such reproduction, copy or record is made or imported in contravention of any of the provisions of this Ordinance;
 - (v) "lecture" includes address, speech and sermon;
- (w) "licence" means a licence granted under Chapter VII of this Ordinance;
- (x) "literary work" includes works on humanity, religion, social and physical sciences, tables and compilations;
- (y) "manuscript" means the original documents embodying the work, whether written by hand or not;
- (z) "musical work" means any combination of melody and harmony or either of them printed, reduced to writing or otherwise graphically produced or reproduced;

- (za) "newspaper" means a newspaper as defined in section 2 (f) of the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973), printed or published in conformity with the provisions of part III of the said Act;
- (zb) "performance" includes any mode of visual or acoustic presentation, including any such presentation by the exhibition of a cinematographic work, or by means of broadcast, or by the use of a record, or by any other means and, in relation to a lecture, includes the delivery of such lecture;
- (zc) "performing right society" means a society, association or other body, whether incorporated or not, which carries on in Bangladesh the business of issuing or granting licences for the performance in Bangladesh of any works in which copyright subsists;
- (zd) "photograph" includes photo-lithograph and any work produced by any process analogous to photography but does not include any part of a cinematographic work;
- (ze) "plate" Includes any stereotype or other plate, stone, block, mould, matrix, transfer, negative tape, wire, optical films, or other device used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliances by which records for the acoustic presentation of the work are or are intended to be made;
- (zf) "prescribed" means prescribed by rules made under this Ordinance;
- (zg) "public libraries" means the National Library of Bangladesh designated as such by the Government and any three other libraries as may be specified by the Government in this behalf by notification in the official gazette;
- (zh) "rebroadcast" means a simultaneous or subsequent broadcast by one Broadcasting Authority of the broadcast of another Broadcasting Authority, whether situated in Bangladesh or abroad, and includes distribution of such broadcast over wires and "rebroadcasting" shall be construed accordingly;
- (zi) "record" means any disc, tape, wire, perforated roll or other device in which sounds are embodied so as to be capable of being reproduced therefrom, other than a sound track associated with a cinematographic work;
- (zj) "recording" means the aggregate of the sound, embodied in, and capable of being reproduced by means of a record;
- (zk) "reproduction" in the case of a literary, dramatic or musical work, includes a reproduction in the form of a record or of a cinematographic work or the sorting of the work in a computer or other device by means of which it can be read or otherwise perceived 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 a two dimensional form and references to reproduction of a work shall be construed accordingly;

(zl) "Registrar" means the Registrar of Copyrights appointed under section 44 and includes a Deputy Registrar of Copyrights discharging any function of the Registrar;

(zm) "work" means any of the following works, namely:—

(i) a literary, dramatic, musical or artistic work;

(ii) a cinematographic work;

(iii) a record; and

(iv) a broadcast;

(zn) "work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors; and

(zo) "work of sculpture" includes casts and models;¹

3. Meaning of copyright.—(1) For the purposes of this Ordinance, "copyright" means the exclusive right, by virtue of, and subject to the provisions of, this Ordinance,—

(a) in the case of a literary, dramatic or musical work, to do and authorize the doing of any of the following acts, namely:—

(i) to reproduce the work in any material form;

(ii) to publish the work;

(iii) to perform the work in public;

(iv) to produce, reproduce, perform or publish any translation of the work;

(v) to use the work in a cinematographic work or make a record in respect of the work;

(vi) ²[to broadcast the work or to communicate the broadcast of the work to the public by a loud-speaker or any other similar instrument;]

(vii) to make any adaptation of the work;

(viii) to do in relation to a translation or an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to (vi);

(b) in the case of artistic work, to do or authorize the doing of any of the following acts, namely :—

(i) to reproduce the work in any material form;

(ii) to publish the work;

(iii) to use the work in a cinematographic work;

(iv) to show the work in television ;

¹Subs. sec. 2 *ibid* by the Act. No. LIV of 1974.

²Subs. by the Act. No. LIV of 1974, s. 3 (1) (a) (vi) *ibid*,

- (v) to make any adaptation of the work ;
- (vi) to do in relation to an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to (iv) ;
- (c) in the case of a cinematographic work, to do or authorize the doing of any of the following acts, namely:—
 - (i) to make a copy of the work;
 - (ii) to cause the work in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds, to be heard in public;
 - (iii) to make any record embodying the recording in any part of the sound track associated with the work by utilising such sound track;
 - (iv)¹[to broadcast the work;]
- (d) in the case of a record, to do or authorise the doing of any of the following acts by utilising the record, namely :—
 - (i) to make any other record embodying the same recording;
 - (ii) to use the record in the sound track of a cinematographic work;
 - (iii) to cause the recording embodied in the record to be heard in public;
 - (iv) to communicate the recording embodied in the record by ²[broadcast.]

(2) Any reference in sub-section (1) to the doing of any act in relation to a work or a translation or an adaptation thereof shall include a reference to the doing of that act in relation to a part thereof.

4. Meaning of publication.—(1) For the purposes of this Ordinance, “publication” means,—

- (a) in the case of a literary, dramatic, musical or artistic work, the issue of copies of the work to the public in sufficient quantities;
- (b) in the case of a cinematographic work, the sale or hire or offer for sale or hire of the work or copies thereof to the public;
- (c) in the case of a record, the issue of records to the public in sufficient quantities;

but does not, except as otherwise expressly provided in this Ordinance, include,—

- (i) in the case of a literary, dramatic or musical work, the issue of any records recording such work;
- (ii) in the case of a work of sculpture or an architectural work of art, the issue of photographs and engravings of such work.

¹Subs. by Act No. LIV of 1974, s. 3 (1) (c) (iv) *ibid.*

²Subs. by Act No. LIV of 1974, s. 3 (1) (d) (iv) *ibid.*

2. If any question arises under sub-section (1) whether copies of any literary, dramatic, musical or artistic work, or records issued to the public are sufficient in quantities, it shall be referred to the Board whose decision thereon shall be final.

5. When work not deemed to be published or performed in public.—Except for the purposes of infringement of copyright, a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public or delivered in public, without the licence or consent of the owner of the copyright.

6. When work deemed to be first published in Bangladesh.—(1) For the purposes of this Ordinance, a work published in Bangladesh shall be deemed to be first published in Bangladesh, notwithstanding that it has been published simultaneously in some other country, unless such other country provides a shorter term of copyright for such work; and a work shall be deemed to be published simultaneously in Bangladesh and in another country if the time between the publication in Bangladesh and the publication in such other country does not exceed thirty days.

(2) If any question arises under sub-section (1) whether the term of copyright for any work is shorter in any other country than that provided in respect of that work under this Ordinance, it shall be referred to the Board whose decision thereon shall be final.

7. Nationality of author where the making of unpublished work is extended over considerable period.—Where, in the case of an unpublished work, the making of the work is extended over a considerable period, the author of the work shall, for the purposes of this Ordinance, be deemed to be a citizen of, or domiciled in, the country of which he was a citizen or wherein he was domiciled during the major part of that period.

8. Domicile of corporations.—For the purposes of this Ordinance, a body corporate shall be deemed to be domiciled in Bangladesh if it is incorporated under any law in force in Bangladesh or if it has an established place of business in Bangladesh.

CHAPTER II

COPYRIGHT, OWNERSHIP OF COPYRIGHT AND THE RIGHTS OF THE OWNER.

9. No copyright except as provided in this Ordinance.—No person shall be entitled to copyright or any similar right in any work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Ordinance, or of any other law for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

10. Work in which copyright subsists.—(1) Subject to the provisions of this section and to the other provisions of this Ordinance, copyright shall subsist throughout Bangladesh in the following classes of works, that is to say,—

- (a) Original literary, dramatic, musical and artistic works;
- (b) Cinematographic works;^{1***}
- (c) Records [and]²
- [(d) Broadcasts.]³

(2) Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 53 or section 54 apply, unless,—

- (i) in the case of a published work, the work is first published in Bangladesh, or where the work is first published outside Bangladesh, the author is at the date of such publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of Bangladesh or domiciled in Bangladesh;
- (ii) in the case of an unpublished work other than an architectural work of art, the author is at the date of the making of the work a citizen of Bangladesh or domiciled in Bangladesh; ^{4**}
- (iii) in the case of an architectural work of art, the work is located in Bangladesh;
- [(iv) in the case of a record, the recording is made in Bangladesh; and
- (v) in the case of a broadcast, the broadcasting is transmitted from within Bangladesh.]⁵

(3) Copyright shall not subsist,—

- (a) in any cinematographic work, if a substantial part of the work is an infringement of the copyright in any other work;
- (b) in any record made in respect of a literary, dramatic or musical work, if, in making the record, copyright in such work has been infringed; and
- [(c) in any broadcast, if a substantial part of the broadcast, is an infringement of the copyright in any other work.]⁶

(4) The copyright or the lack of copyright in a cinematographic work [or a broadcast]⁷ or a record shall not affect the separate copyright in any work in respect of which or a substantial part of which, the work ⁷[or the broadcast] or as the case may be, the record is made.

¹Omitted by Act No. LIV of 1974, s. 10 (1)(b)

²Subs. by Act No. LIV of 1974, s. 10 (1) (c) for semi-colon.

³Added by Act No. LIV of 1974, s. 10 (1) (d) *ibid.*

⁴Omitted by Act No. LIV of 1974, s. 10 (2) (ii), the word "and".

⁵Added by the Act No. LIV of 1974, s. 10 (iv), *ibid.*

⁶Added by Act No. LIV of 1974, s. 10 (3) (c).

⁷Ins. by Act No. LIV of 1974, s. 10 (4), *ibid.*

(5) In the case of an architectural work of art, copyright shall subsist only in the artistic character and design and shall not extend to the processes or method of construction.

11. **Work of joint authors.**—Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Ordinance, the work shall be treated for the purposes of this Ordinance as if the other author or authors had been the sole author or authors thereof :

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions.

12. **Provision as to designs registrable under Act II of 1911.**—(1) Copyright shall not subsist under this Ordinance in any design which is registered under the Patents and Designs Act, 1911 (II of 1911).

(2) Copyright in any design which is capable of being registered under the Patents and Designs Act, 1911 (II of 1911), but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his licence, by any other person.

13. **First owner of copyright.**—Subject to the provisions of this Ordinance, the author of a work shall be the first owner of the copyright therein:

Provided that,—

- (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the 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 the first owner of the copyright in the work;
- (b) subject to the provisions of clause (a), in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematographic work made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- (c) in the case of a work made in the course of the authors employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- (d) in the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- (e) in the case of a work to which the provisions of section 53 apply, the international organisation concerned shall be the first owner of the copyright therein.

14. Assignment of copyright.—(1) The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof:

Provided that, in the case of the assignment of copyright in any future work, the assignment shall take effect only when the work comes into existence:

Provided further that, where the owner of the copyright in a work is the author of the work, no assignment of the copyright in the work or of any interest in such copyright shall be made, or if made shall be effective (except where the assignment is made in favour of government or an educational, charitable, religious or non-profit institution) for a period of more than ten years beginning from the calendar year next following the year in which the assignment is made; if an assignment of the copyright in a work is made in contravention of this proviso, the copyright in the work shall, on the expiry of the period specified in this proviso, revert to the author (who may re-assign the copyright in the work subject to the provisions herein contained), or if the author be dead to his representatives in interest:

¹[Provided further that the copyright in an unpublished work assigned by its author to any person or organisation for the specific purpose of publication shall revert to the author if it is not published within a period of three years from the date of its assignment, subject to the condition that prior to such assignment the work is registered under this Ordinance].

(2) Where the assignee of a copyright becomes entitled to any right comprised in the copyright, the assignee as respects the rights so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Ordinance as the owner of the copyright and the provisions of this Ordinance shall have effect accordingly.

(3) In this section, the expression “assignee” as respects the assignment of the Copyright in any future work includes the legal representatives of the assignee, if the assignee dies before the work comes into existence.

15. Mode of assignment.—No assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or by his duly authorised agent.

16. Transmission of copyright in manuscript by testamentary disposition.—Where under a bequest a person is entitled 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 the contrary intention is indicated in the testator's will or any 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.

17. Right of owner to relinquish copyright.—(1) The owner of the Copyright in a work may relinquish all or any of the rights comprised in the copyright by giving notice in the prescribed form to the Registrar and thereupon such rights shall, subject to the provisions of sub-section (3), cease to exist from the date of the notice.

¹Added by Act No. LIV of 1974, s. 14.

(2) On receipt of a notice under sub-section (1), the Registrar shall cause it to be published in the official gazette and in such other manner as he may deem fit.

(3) The relinquishment of all or any of the rights comprised in the copyright in a work shall not affect any rights subsisting in favour of any person on the date of the notice referred to in sub-section (1).

CHAPTER III

TERM OF COPYRIGHT

18. Term of copyright in published literary, dramatic, musical and artistic works.—Except as otherwise hereinafter provided, copyright shall subsist in any literary, dramatic, musical or artistic work (other than a photograph) published within the life-time of the author until fifty years from the beginning of the calendar year next following the year in which the author dies.

Explanation—In this section, the reference to the author shall, in the case of a work of joint authorship, be construed as a reference to the author who dies last.

19. Term of copyright in posthumous work.—(1) In the case of a literary, dramatic or musical work or an engraving, in which copyright subsists at the date of the death of the author or, in the case of any such work of joint authorship, at or immediately before the date of the death of the author who dies last, but which or any adaptation of which, has not been published before that date, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published or, where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year.

(2) For this purposes of this section, a literary, dramatic or musical work or an adaptation of any such work shall be deemed to have been published, if it has been performed in public or if any records made in respect of the work have been sold, or offered for sale, to the public.

20. Term of copyright in cinematographic works, records and photographs.—(1) In the case of a cinematographic work, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is published.

(2) In the case of a record, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the record is published.

(3) In the case of a photograph, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph is published.

¹[20A. **Term of copyright in broadcast.**—In the case of a broadcast, copyright shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the broadcast first took place.]

21. **Term of copyright in anonymous and pseudonymous work.**—(1) In the case of a literary, dramatic, musical or artistic work (other than a photograph), which is published anonymously or pseudonymously, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published:

Provided that where the identity of the author is disclosed before the expiry of the said period, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the author dies.

(2) In sub-section (1), references to the author shall, in the case of an anonymous work of joint authorship be construed,—

(a) where the identity of one of the authors is disclosed as references to that author;

(b) where the identity of more authors than one is disclosed, as references to the author who dies last from amongst such authors.

(3) In sub-section (1), references to the author shall, in the case of a pseudonymous work of joint authorship, be construed,—

(a) where the names of one or more (but not all) of the authors are ¹[pseudonym] and his or their identity is not disclosed, as references to the author whose name is not a pseudonym, or, if the names of two or more of the authors are not pseudonyms, as references to such one of those authors who dies last;

(b) where the names of one or more (but not all) of the authors are pseudonyms and the identity of one or more of them is disclosed, as references to the author who dies last from amongst the authors whose names are not pseudonyms and the authors whose names are pseudonyms and are disclosed; and

(c) where the names of all the authors are pseudonyms and the identity of one of them is disclosed, as references to the author whose identity is disclosed or, if the identity of two or more of such authors is disclosed as references to such one of those authors who dies last.

Explanation.—For the purposes of this section, the identity of an author shall be deemed to have been disclosed, if either the identity of the author is disclosed publicly by both the author and the publisher or is otherwise established to the satisfaction of the Board by that author.

22. **Term of copyright in Government works and in works of International Organisations.**—(1) Copyright in a Government work shall, where government is the first owner of the copyright therein, subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

¹Ins. by Act No. LIV of s. 20A *ibid.*

²Sic. should read ‘pseudonyms’.

(2) In the case of a work of an international organisation to which the provisions of section 53 apply, copyright shall subsist shall until fifty years from the beginning of the calendar year next following the year in which the work is first published.

23. **Term of copyright in unpublished work.**—(1) If a work, whose author's identity is known, is not published posthumously within fifty years after the death of the author, such work shall fall into the public domain after fifty years from the beginning of the calendar year next following the year in which the author dies.

(2) If a work, whose author's identity is not known, is not published within fifty years of its creation, such work shall fall into the public domain after fifty years from the beginning of the calendar year next following the year in which the work is created.

CHAPTER IV

RIGHTS OF BROADCASTING ORGANIZATIONS

24. **Rights of Broadcasting Organizations.**—(1) Broadcasting organizations shall enjoy the right to authorise,—

- (a) the rebroadcasting of their broadcasts ;
- (b) the fixation of their broadcasts ; and
- (c) the copying of fixations made of their broadcasts.

(2) [Omitted by the copyright (Amendment) Act, 1974.]

25. **Application of other provisions of this Ordinance to broadcasts.**—Any person who, without the authorization of the broadcasting organisation, does or causes the doing of any of the acts referred to in section 24 shall be deemed to infringe the rights of the broadcasting organizations, and the provisions contained in Chapter XII to XVI shall, within the limits permitted by the nature of the matter, apply to broadcasting organisations and broadcasts as if they were authors and works, respectively.

26. [Omitted by the Copyright (Amendment) Act, 1974].

27. **Other rights not affected.**—For the removal of doubts, it is hereby declared that the rights conferred upon broadcasting organizations shall not affect the copyright in any literary, dramatic, musical, artistic or cinematographic work, or in any record used in the broadcast.

CHAPTER V

RIGHTS IN PUBLISHED EDITIONS OF WORKS

28. **Protection of typography and term of protection.**—The publisher of an edition of a work shall enjoy the right to authorize the making, by any photographic or similar process, of copies, intended for sale in commerce, of the typographical arrangement of the edition, and such right shall subsist until twenty five years from the beginning of the calendar year next following the year in which the edition was first published.

29. **Infringements, etc.**—Any person who, without the authorization of the publisher, makes or causes the making of, by any photographic or similar process, copies, intended for sale in commerce, of the typographical arrangement of the edition or any substantial part thereof, shall be deemed to infringe the rights of the publisher, and the provisions contained in Chapters XII to XVI shall, within the limits permitted by the nature of the matter, apply to the publisher and the typographical arrangements of editions as if they were authors and works respectively.

Explanation.—“Typographical arrangement” shall include calligraphy.

30. **Relations to copyright.**—For the removal of doubts, it is hereby declared that the right conferred upon publishers by this Chapter shall,—

- (a) subsist irrespective of the question whether the edition is that of a work protected or unprotected by copyright;
- (b) not affect the copyright, if any, in the literary, dramatic, musical, or artistic work itself.

CHAPTER VI

PERFORMING RIGHTS SOCIETIES

31. **Performing rights society to file statements of fees, charges and royalties.**—(1) Every performing rights society shall within the prescribed time and in the prescribed manner, prepare, publish and file with the Registrar, statements of all fees, charges or royalties which it proposes to collect for the grant of licences for the performance in public of works in respect of which it has authority to grant such licences.

(2) If any such society fails, in relation to any work, to prepare, publish or file with the Registrar the statements referred to in sub-section (1) in accordance with the provisions of that sub-section, no action or other proceeding to enforce any remedy, civil or criminal, for infringement of the performing rights in that work shall be commenced except with the consent of the Registrar.

32. **Objections relating to published statements.**—Any person having any objections to any fees, charges or royalties or other particulars included in any statement referred to in section 31 may at any time lodge such objections in writing at the Copyright Office.

33.. **Determination of objections.**—(1) Every objection lodged at the Copyright Office under section 32 shall, as soon as may be, be referred to the Board, and the Board shall decide such objection in the manner hereinafter provided.

(2) The Board shall, notwithstanding that no objection has been lodged, take notice of any matter which, in its opinion, is one for objection.

(3) The Board shall give notice in respect of every objection to the performing rights society concerned and shall give to such society and the person who lodged the objection a reasonable opportunity of being heard.

(4) The Board shall, after making the prescribed enquiry, make such alterations in the statements as it may think fit, and shall transmit the statements thus altered or unchanged, as the case may be, to the Registrar, who shall thereupon as soon as practicable after the receipt of such statements, publish them in the official Gazette and furnish the performing rights society concerned and the person who lodged the objection with a copy thereof.

(5) The statements of fees, charges or royalties as approved by the Board shall be the fees, charges or royalties which the performing rights society concerned may respectively lawfully sue for or collect in respect of the issue or grant by it of licences for the performance in public of works to which such fees, charges or royalties relate.

(5) No performing rights society shall have any right of action or any right to enforce any civil or other remedy for infringement of the performing rights in any work claimed by such society against any person who has tendered or paid to such society the fees, charges or royalties which have been approved by the Board as aforesaid.

34. **Existing rights not affected.**—Nothing in this chapter shall be deemed to affect—

- (a) any rights or liabilities in relation to the performing rights in work accrued or incurred before the commencement of this Ordinance; and
- (b) any legal proceedings in respect of such rights or liabilities pending at such commencement.

CHAPTER VII

LICENCES

35. **Licences by owners of copyright.**—The owner of the copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in the copyright by licence in writing signed by him or by his duly authorized agent :

Provided that in the case of a licence relating to copyright in any future work, the licence shall take effect only when the work comes into existence.

Explanation.—When a person to whom a licence relating to copyright in any future work is granted under this section dies before the work comes into existence, his legal representatives shall, in the absence of any provision to the contrary in the licence, be entitled to the benefit of the licence.

36. Compulsory licence in works withheld from public.—(1) If at any time during the term of copyright in ¹[Bangalee] work which has been published or performed in public, an application is made to the Board that the owner of the copyright in the work—

- (a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work and by reason of such refusal the work is withheld from the public ; or
- (b) has refused to allow communication to the public by ²[broadcast] of such work, or in the case of a record, the work recorded in such record, on terms which the applicant considers reasonable ;

the Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that such refusal is not in the public interest, or that the grounds for such refusal are not reasonable, direct the Registrar to grant to the applicant a licence to republish the work, perform the work in public or communicate the work to the public by ²[Broadcast], as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such other terms and conditions as the Board may determine ; and thereupon the Registrar shall grant the licence to the applicant in accordance with the directions of the Board, on payment of such fee as may be prescribed.

(2) Where two or more persons have made applications under sub-section (1), the licence shall be granted to the applicant who, in the opinion of the Board, would best serve the interests of the general public,.

37. Licence to produce and publish translations.—(1) Any citizen of Bangladesh or a person domiciled in Bangladesh may apply to the Board for a licence to produce and publish a translation of a literary or dramatic work in ³[Bengali] or a language ordinarily used in Bangladesh.

(2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.

(3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar such fee as may be prescribed.

(4) When an application is made to the Board under this section, it may, after holding such inquiry as may be prescribed, direct the Registrar to grant to the applicant a licence, not being an exclusive licence, to produce and publish a translation of the work in the language mentioned in the application, on condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public, calculated at such rate as the Board may, in the circumstances of each case, determine in the prescribed manner :

¹Subs. by Act No. LIV of 1974, s. 36 (1) for "Pakistan".

²Subs. by Act No. LIV of 1974, s. 36 (1) (b) for "Radio diffusion".

³Subs. by Act No. LIV of 1974, s. 37 (1), for "any Pakistani Language".

Provided that no such licence shall be granted, unless—

- (a) a translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorized by him within seven years of the first publication of the work, or if a translation has been so published, it has been out of print ;
- (b) the applicant has proved to the satisfaction of the Board that he had requested and had been denied authorization by the owner of the copyright to produce and publish such translation or that he was unable to find the owner of the copyright ;
- (c) where the applicant is unable to find the owner of the copyright, he had sent a copy of his request for such authorization to the publisher whose name appears from the work, not less than two months before the application for the licence ;
- (d) the Board is satisfied ^{1*****} that the applicant is competent to produce and publish a correct translation of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section ;
- (e) the author has not withdrawn from circulation copies of the work ;
- (f) an opportunity of being heard is given wherever practicable to the owner of the copyright in the work ; and
- (g) the Board is satisfied, for reason to be recorded in writing, that the grant of the licence will be in the public interest.

CHAPTER VIII

REGISTRATION OF COPYRIGHT

38. Registrar of Copyrights, indexes form and inspection of Register.—(1) The Registrar shall keep at the Copyright Office a register in the prescribed form to be called the Register of Copyrights in which shall be entered the names or titles of works and the names and addresses of authors, publishers and owners of copyright and such other particulars as may be prescribed.

(2) The Registrar shall also keep such indexes of the Register of Copyrights as may be prescribed.

(3) The Register of Copyrights and the indexes thereof kept under this section shall at all reasonable times be open to inspection, and any person shall be entitled to take copies of, or make extracts from, any such register or index on payment of such fee and subject to such conditions as may be prescribed.

¹Omitted by Act No. LIV of 1974 s. 37 (4) (d).

39. **Registration of copyrights.**—(1) The author or publisher of, or the owner of, or other person interested in the copyright in, any work may make an application in the prescribed form accompanied by the prescribed fee to the Registrar for entering particulars of the work in the Register of Copyrights.

(2) On receipt of an application in respect of any work under sub-section (1), the Registrar shall enter the particulars of the work in the Register of Copyrights and issue a certificate of such registration to the applicant unless, for reason to be recorded in writing, he considers that such entry should not be made in respect of any work.

40. **Registration of assignments, etc., of copyrights.**—(1) Any person interested in the grant of an interest in a copyright either by assignment or licence, may make an application in the prescribed form, accompanied by the prescribed fee, the original instrument of such grant and a certified copy thereof, to the Registrar for entering the particulars of the grant in the Register of Copyrights.

(2) On receipt of an application in respect of any work under sub-section (1), the Registrar shall, after holding such inquiry as he deems fit, enter the particulars of the grant in the Register of Copyrights unless, for reasons to be recorded in writing, he considers that such entry should not be made in respect of any grant.

(3) The certified copy of the grant shall be retained at the Copyright Office and the original shall be returned to the person depositing it, with a certificate of registration endorsed thereon or affixed thereto.

41. **Correction of entries in the Register of Copyrights and indexes, etc.**—(1) The Registrar may, in the prescribed cases and subject to the prescribed conditions, amend or alter the Register of Copyrights and the indexes by—

(a) correcting any error in any name, address or particulars ; or

(b) correcting any other errors which may have arisen therein by accidental slip or omission.

(2) The Board, on application of the Registrar or of any person aggrieved, may order the rectification of the Register of copyrights by—

(a) the making of any entry wrongly omitted to be made in the Register, or

(b) the expunging of any entry wrongly made in, or remaining on, the Register, or

(c) the correction of any error or defect in the Register.

42. **Register of copyrights to be prima facie evidence of particulars entered therein.**—(1) The Register of Copyrights and the indexes shall be *prima facie* evidence of the particulars entered therein and documents purporting to be copies of any entry therein or extracted therefrom certified by the Registrar and sealed with the seal of the Copyright Office shall be admissible in evidence in all courts without further proof or production of the original.

(2) A certificate of registration of copyright in a work shall be *prima facie* evidence that copyright subsists in the work and that the person shown in the certificate as the owner of the copyright is the owner of such copyright.

CHAPTER IX

COPYRIGHT OFFICE, REGISTRAR OF COPYRIGHT
AND COPYRIGHT BOARD.

43. **Copyright Office.**—(1) There shall be established for the purposes of this Ordinance an office to be called the Copyright Office.

(2) The copyright office shall be under the immediate control of the Registrar of Copyrights who shall act under the superintendence and direction of the Government.

(3) The Copyright Office shall have a seal the impression whereof shall be judicially noticed.

44. **Registrar and Deputy Registrars of Copyrights.**—(1) The Government shall, for the purposes of this Ordinance, appoint a Registrar of Copyrights and may appoint one or more Deputy Registrars of Copyrights.

(2) The Registrar shall,—

- (i) sign all entries made in the Register of Copyrights kept under this Ordinance ;
- (ii) sign all certificates of registration of copyrights and certified copies under the seal of the Copyright Office;
- (iii) exercise the powers conferred and perform the duties imposed upon him by or under this Ordinance;
- (iv) be the Secretary of the Copyright Board ; and
- (v) shall perform such other functions as may be prescribed.

(3) A Deputy Registrar of Copyrights shall discharge, under the superintendence and direction of the Registrar, such functions of the Registrar under this Ordinance as the Registrar may, from time to time, assign to him.

45. **Copyright Board.**—¹[(1) The Government shall constitute a Board to be called the Copyright Board consisting of the following members, namely :—

- (i) A Chairman appointed by the Government ;
- (ii) not less than three and not more than five other members appointed by the Government ; and
- (iii) The Registrar, *ex-officio*.]

(2) The members, including the Chairman of the Board, other than the *ex-officio* member, shall hold office for such period and on such terms and conditions as may be prescribed.

¹[(3) The Chairman shall be appointed from among eminent jurists and educationists.]

¹Subs. by Act No. LIV of 1974, s. 45 (1) (3), *ibid*.

46. Powers and procedure of the Board.—(1) The Board shall, subject to any rules that may be made under this Ordinance, have power to regulate its own procedure, including the fixing of places and times of its sittings.

(2) If there is a difference of opinion among the members of the Board in respect of any matter coming before it for decision under this Ordinance, the opinion of the majority shall prevail :

Provided that where there is no such majority the opinion of the Chairman shall prevail.

(3) The Board may authorize any of its members to exercise any of its powers under section 78 and any order made or act done in exercise of any such power by the member so authorized shall be deemed to be order or act, as the case may be, of the Board.

(4) No act done or proceeding taken by the Board under this Ordinance shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

(5) The Board shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898) and all proceedings before the Board shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the ²[Penal Code] (Act XLV of 1860).

(6) No member of the Board shall take part in any proceedings before the Board in respect of any matter in which he has a personal interest.

CHAPTER X

DELIVERY OF BOOKS AND NEWSPAPERS TO PUBLIC LIBRARIES.

47. Delivery of books to public libraries.—(1) Subject to any rules that may be made under this Ordinance, but without prejudice to the provisions contained in ¹[section 24 of the printing Presses and Publications (Declaration and Registration Act, 1973 (XXIII of 1973)], the publisher of every book published in Bangladesh after the commencement of this ordinance, shall, notwithstanding any agreement to the contrary, deliver at his own expense, one copy of the book to each of the three public libraries within thirty days from the date of its publication.

(2) The copy delivered to the ²[National Library of Bangladesh] shall be a copy of the whole book with all maps and illustrations belonging thereto finished and coloured in the same manner as the best copies of the same, and shall be bound sewed or stitched together and on the best paper on which any copy of the book is printed.

¹Subs.by Act No. LIV of 1974, s. 47 (1).

²Subs.by Ord. No. XX of 1978, s.46 (5) *ibid*.

(3) The copy delivered to any other public library shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(4) Nothing contained in sub-section (1) shall apply to any second or subsequent edition of a book in which edition no additions or alterations either in the letter press or in the maps, book prints or other engravings belonging to the book have been made, and a copy of the first or any other edition of which book has been delivered under this section.

48. **Delivery of newspaper to public libraries.**—Subject to any rules that may be made under this Ordinance, but without prejudice to the provisions contained in ¹[section 26 of the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973)], the publisher of every newspaper published in Bangladesh shall deliver at his own expense one copy of each issue of such newspaper as soon as it is published to each of the three public libraries.

49. **Receipt for books delivered.**—The person in-charge of a public library (whether called a librarian or by any other name) or any other person authorized by him in this behalf to whom a copy of a book is delivered under section 47 shall give to the publisher a receipt in writing therefor.

50. **Penalty.**—Any publisher who contravenes any provision of this chapter or of any rule made thereunder shall be punishable with fine which may extend to fifty taka and, if the contravention is in respect of a book, shall also be punishable with the fine which shall be equivalent to the value of the book; and the Court trying the offence may direct that the whole or any part of the fine, realised from him shall be paid, by way of compensation, to the public library to which the book or newspaper, as the case may be, ought to have been delivered.

51. **Cognizance of offences under this Chapter.**—(1) No court shall take cognizance of any offence punishable under this chapter save on complaint made by an officer empowered in this behalf by the government by a general or special order.

(2) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this chapter.

52. **Application of this chapter to books and newspapers published by government.**—This chapter shall also apply to books and newspapers published by or under the authority of the Government, but shall not apply to books meant for official use only.

CHAPTER XI

INTERNATIONAL COPYRIGHT.

53. **Provisions as to works of certain international organisation.**—(1) The government may, by notification in the official Gazette, declare that this section shall apply to such organizations as may be specified therein of which one or more sovereign powers or the Government or Governments thereof are members.

¹. Subs. by Act No. LIV of 1974, s. 48 *ibid*

(2) Where—

- (a) any work is made or first published by or under the direction or control of any organization to which this section applies ;
- (b) there would, apart from this section, be no copyright in the work in Bangladesh at the time of the making or , as the case may be, of the first publication thereof ; and
- (c) either—
 - (i) the work is published as aforesaid in pursuance of an agreement in that behalf with the author, being an agreement which does not reserve to the author the copyright, if any, in the work, or
 - (ii) under section 13 any copyright in the work would belong to the organization ;

there shall subsist copyright in the work throughout Bangladesh.

(3) Any organisation to which this section applies which at the material time had not the legal capacity of a body corporate shall have, and be deemed at all material times to have had, the legal capacity of a body corporate for the purpose of holding, dealing with, and enforcing copyright and in connection with all legal proceedings relating to copyright.

54. Power to extend copyright to foreign works.—¹ * * The Government may, by order published in the official Gazette, direct that all or any of the provisions of this Ordinance shall apply—

- (a) to works first published in a foreign country to which the order relates in like manner as if they were first published within Bangladesh ;
- (b) to unpublished works, or any class thereof, the authors whereof were at the time of making of the work, subject or citizens of a foreign country to which the order relates, in like manner as if the authors were citizens of Bangladesh ;
- (c) in respect of domicile in a foreign country to which the order relates in like manner as if such domicile were in Bangladesh ;
- (d) to any work of which the author was at the date of the first publication thereof, or, in a case where the author was dead at that date, was at the time of his death, a subject or citizen of a foreign country to which the order relates in like manner as if the author was a citizen of Bangladesh at the date or time ;

and thereupon, subject to the provisions of this Chapter and of the order, this Ordinance shall apply accordingly :

Provided that—

- (i) before making an order under this section in respect of any foreign country (other than a country with which Bangladesh has entered into a treaty or which is a party to a convention relating to copyright to which Bangladesh is also a party), the government shall be satisfied that

¹Omitted by Act No. LIV of 1974, s' 54, "(1)".

- that foreign country has made, or has undertaken to make such provisions, if any, as it appears to the Government expedient to require for the protection in that country of works entitled to copyright under the provisions of this Ordinance ;
- (ii) the order may provide that the provisions of this Ordinance shall apply either generally or in relation to such classes of works or such classes of cases as may be specified in the order ;
 - (iii) the order may provide that the terms of copyright in Bangladesh shall not exceed that conferred by the law of the foreign country to which the order relates ;
 - (iv) the order may provide that the provisions of this ordinances as to delivery of copies of books to public libraries shall not apply to works first published in such foreign country except so far as is provided by the order ;
 - (v) in applying the provisions of this Ordinance as to ownership of copyright, the order may make such modification as appears necessary, having regard to the law of the foreign country ;
 - (vi) the order may provide that this Ordinance or any part thereof shall not apply to works made, or first published, before the commencement of the order.

55. Power to restrict rights in works of foreign authors first published in Bangladesh.—If it appears to the Government that a foreign country does not give, or has not undertaken to give, adequate protection to the works of ¹[Bangalee] authors, the government may, by order published in the official gazette, direct that such of the provisions of this Ordinances as confer copyright on works first published in Bangladesh shall not apply to works, published after the date specified in the order, the authors whereof are subjects or citizens of such foreign country and are not domiciled in Bangladesh and thereupon those provisions shall not apply to such works.

CHAPTER XII

INFRINGEMENT OF COPYRIGHT

56. When copyright infringed.—Copyright in a work shall be deemed to be infringed—

- (a) when any person, without the consent of the owner of the copyright or without a licence granted by such owner or the Registrar under this Ordinance or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Ordinance,—
 - (i) does anything, the exclusive right to do which is by this Ordinance conferred upon the owner of the copyright ; or

¹Subs. by Act No. LIV of 1974, s. 55, for “Pakistani”.

(ii) Permits for profit any place to be used for the performance of the work in public where such performance constitutes an infringement of the copyright in the work unless he was not aware, and had no reasonable ground for suspecting, that such performance would be an infringement of copyright ; or

(b) when any person—

(i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or

(ii) distributes either for the purpose of trade to such an extent as to affect prejudicially the owner of the copyright, or

(iii) by way of trade exhibits in public, or

(iv) imports into Bangladesh any infringing copies of the work.

Explanation.—For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematographic work shall be deemed to be an “infringing copy”.

57. **Certain acts not to be infringement of copyright.**—(1) The following acts shall not constitute an infringement of copyright, namely :—

(a) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of—

(i) research or private study ;

(ii) criticism or review, whether of that work or of any other work;

(b) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of reporting current events—

(i) in a newspaper, magazine or similar periodical, or

(ii) by ¹[broadcast] or in a cinematographic work or by means of photograph ;

(c) the reproduction of a literary, dramatic, musical or artistic work for the purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding ;

(d) the publication in a newspaper of a report of an address of political nature delivered at a public meeting unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given and, except whilst the building is being used for public worship, in a position near the lecturer ; but nothing in this clause shall affect the provisions as to newspaper summaries;

(e) the reproduction of any literary, dramatic, or musical work in the certified copy made or supplied in accordance with any law for the time being in force ;

¹Subs. by Act No. LIV of 1974, s. 57(1) (b) (ii), *ibid.*

- (f) the reading or recitation in public of any reasonable extract from a published literary or dramatic work;
- (g) the publication in a collection, mainly composed of non-copyright matter, *bona fide* intended for the use of educational institutions and so described in the title and in any advertisement issued by or on behalf of the publisher, of short passages from published literary or dramatic works, not themselves published for the use of educational institutions, in which copyright subsists :

Provided that not more than two such passages from works by the same author are published by the same publisher during any period of five years ;

Explanation.—In the case of a work of joint authorship references in this clause to passages from works shall include references to passages from works by any one or more of the authors of those passages or by any one or more of those authors in collaboration with any other person.

- (h) the reproduction or adaptation of a literary, dramatic, musical or artistic work—

- (i) in the course and for the sole purpose of instruction whether at an educational institution or elsewhere, where the reproduction or adaptation is made by a teacher or a pupil otherwise than by the use of a printing process ; or

- (ii) as part of the questions to be answered in an examination ; or

- (iii) in answers to such questions ;

- (i) the performance, in the course of the activities of an educational institution, of a literary, dramatic or musical work by the staff and students of the institution, or of a cinematographic work or a record, if the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution ;

- (j) the making of records in respect of any literary, dramatic or musical works, if—

- (i) records recording the work have previously been made by or with the licence or consent of, the owner of the copyright in the work ; and

- (ii) the person making the records has given the prescribed notice of his intention to make the records, and has paid in the prescribed manner to the owner of the copyright in the work royalties in respect of all such records to be made by him, at the rate fixed by the Board in this behalf :

Provided that in making the records such person shall not make any alterations in or omissions from, the work, unless records recording the work subject to similar alterations and omissions have been previously made by, or with the licence or consent of the owner of the copyright, or unless such alterations and omissions are reasonably necessary for the adaptation of the work to the records in question ;

- (k) the causing of a recording embodied in a record to be heard in public utilising the record.—

- (i) at any premises where persons reside, as part of the amenities provided exclusively or mainly for residents therein, or

- (ii) as part of the activities of a club, society or other organisation which is not established or conducted for profit ;
- (l) the performance of a literary, dramatic or musical work by an amateur club or society, if the performance is given to a non-paying audience, or for the benefit of a religious, charitable or educational institution ;
- (m) the reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topics, unless the owner of copyright of such article has expressly reserved to himself the right of such reproduction ;
- (n) the publication in a newspaper, magazine or other periodical of a report of a lecture delivered to public ;
- (o) the making of not more than three copies of a book (including a pamphlet, sheet of music [tape, disc recording] map, chart or plan) by or under the direction of the person in charge of a public library or a non-profit library available for use by the public free of charge or a library attached to an educational institution for the use of such library if such book is not available for sale ;
- (p) the reproduction, for the purpose of research or private study or with a view to publication, of an unpublished literary, dramatic or musical work kept in a library, museum or other institution to which the public has access :

Provided that where the identity of the author of any such work, or in the case of a work of joint authorship, of any of the authors, is known to the library, museum or other institutions, as the case may be, the provision of this clause shall apply only if such reproduction is made at a time more than fifty years from the date of the death of the author or, in the case of a work of joint authorship, from the death of the author whose identity is known or, if the identity of more authors than one is known, from the death of such one of those authors who dies last ;

(q) the reproduction or publication of—

- (i) any matter which has been published in any official gazette, or the report of any committee, commission, council, board or other like body appointed by the Government unless the reproduction or publication of such matter or report is prohibited by the government;
- (ii) any judgement or order of a court, tribunal or other judicial authority, unless the reproduction or publication of such judgement or order is prohibited by the court, tribunal or other judicial authority, as the case may be ;
- (r) the making or publishing of a painting, drawing, engraving or photograph of an architectural work of art ;
- (s) the making or publishing of painting, drawing, engraving or photograph of a sculpture or other artistic work if such work is permanently situate in a public place or any premises to which the public has access ;

(t) the inclusion in a cinematographic work of—

- (i) any artistic work permanently situate in a public place or any premises to which the public has access ; or
- (ii) any other artistic work, if such inclusion is only by way of background or is otherwise incidental to the principal matters represented in the work ;

(u) the use by the author of an artistic work, where the author of such work is not the owner of the copyright therein, of any mould, cast, sketch, plan, model or study made by him for the purpose of the work :

Provided that he does not thereby repeat or imitate the main design of the work ;

(v) the making of an object of any description in three dimensions of 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 ;

(w) the reconstruction of a building or structure in accordance with the architectural drawings or plans by reference to which the building or structure was originally constructed :

Provided that the original construction was made with the consent or licence of the owner of the copyright in such drawings or plans ;

(x) in relation to a literary, dramatic or musical work recorded or reproduced in any cinematographic work, the exhibition of such work after the expiration of the term of copyright therein :

Provided that the provisions of sub-clause (ii) of clause (a), sub-clause (i) of clause (b) and clauses (f), (g), (m), and (p) shall not apply as respects any act unless that act is accompanied by an acknowledgement.—

(i) identifying the work by its title or other description ; and

(ii) unless the work is anonymous or the author of the work has previously agreed or required that no acknowledgement of his name should be made, also identifying the author.

Explanation :—For the purposes of clause (a) or clause (b) of this sub-section—

(i) in relation to a literary or dramatic work in prose, a single extract up to four hundred words, or a series of extracts (with comments interposed) up to a total of eight hundred words with no one extract exceeding three hundred words ; and

(ii) in relation to a literary or dramatic work in poetry, an extract or extracts up to a total of forty lines and in no case exceeding one-fourth of the whole of any poem may be deemed to be fair dealing with such work :

Provided that in a review of a newly published work reasonably longer extracts may be deemed fair dealing with such work.

(2) The provisions of sub-section (1) shall apply to the doing of any act in relation to the translation of a literary, dramatic or musical work or the adaptation of a literary, dramatic, musical or artistic work as they apply in relation to the work itself.

58. **Importation of infringing copies.**—(1) The Registrar, on application by the owner of copyright in any work or by his duly authorized agent and on payment of the prescribed fee, may, after making such enquiry as he deems fit, order that copies made out of Bangladesh of the work which if made in Bangladesh would infringe copyright shall not be imported.

(2) Subject to any rules that may be made under this Ordinance, the Registrar or any person authorized by him in this behalf may enter any ship, vehicle, dock or premises where any such copies as are referred to in sub-section (1) may be found and may examine such copies.

(3) All copies to which any order made under sub-section (1) applies shall be deemed to be goods of which the bringing into Bangladesh has been prohibited or restricted under [section 16 of the Customs Act, 1969 (IV of 1969)] and all the provisions of that Act shall have effect accordingly.

CHAPTER XIII

CIVIL REMEDIES

59. **Definition.**—For the purposes of this Chapter, unless the context otherwise requires, the expression “owner of the Copyright” shall include—

- (a) an exclusive licensee;
- (b) in the case of an anonymous or pseudonymous literary, dramatic, musical or artistic work, the publisher of the work, until the identity of the author or, in the case of an anonymous work of joint authorship or a work of joint authorship published under names all of which are pseudonyms, the identity of any of the authors, is disclosed publicly by the author and the publisher or is otherwise established to the satisfaction of the Board by that author or his legal representatives.

60. **Civil remedies for infringement of copyright.**—(1) Where copyright in any work ²[which has been registered under this Ordinance or is otherwise deemed to have complied with the formalities of registration] has been infringed, the owner of the copyright shall, except as otherwise provided by this Ordinance, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right :

Provided that if the defendant proves that at the date of the infringement he was not aware that copyright subsisted in the work and he had reasonable ground for believing that copyright did not subsist in the work the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement and a decree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the court may in the circumstances deem reasonable.

(2) where, in the case of a literary, dramatic, musical, or artistic work, a name purporting to be that of the author or the publisher, as the case may be, appears on copies of the work as published or, in the case of an artistic work, appeared on the

¹Subs. by Act No. LIV of 1974, s. 58 (3), *ibid*.

²Ins. by Act No. LIV of 1974, s. 60 (1).

work when it was made, the person whose name so appears or appeared shall, in any proceeding in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be.

(3) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the discretion of the court.

61. Protection of separate right.—Subject to the provision of this Ordinance, where the several rights comprising the copyright in any work are owned by different persons, the owner of any such right shall, to the extent of that right, be entitled to the remedies provided by this Ordinance and may individually enforce such right by means of any suit, action or other proceeding without making the owner of any other right a party to such suit or proceeding.

62. Author's special rights.—(1) Notwithstanding that the author of a work may have assigned or relinquished the copyright in the work, he shall have the right to claim the authorship of the work as well as the right to restrain, or claim damages in respect of any distortion, mutilation or other modification of the said work, or any other action in relation to the said work which would be prejudicial to his honour or reputation.

(2) The right conferred upon an author of work by sub-section (1) [other than the right to claim authorship of the work,] may be exercised by the legal representatives of the author.

63. Rights of owner against persons possessing or dealing with infringing copies.—All infringing copies of any work in which copyright subsists, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of possession thereof or in respect of the conversion thereof :

Provided that the owner of the copyright shall not be entitled to any remedy in respect of the conversion of any infringing copies, if the opponent proves—

- (a) that he was not aware that copyright subsisted in the work and he had reasonable ground for believing that copyright did not subsist in the work of which such copies are alleged to be infringing copies ; or
- (b) that he has reasonable ground for believing that such copies or plates do not involve infringement of the copyright in any work.

64. Restriction on remedies in the case of works of architecture.—(1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction to restrain the construction of such building or structure or to order its demolition.

(2) Nothing in section 63 shall apply in respect of the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work.

65. Jurisdiction of court and limitation.—(1) Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the court of the District Judge.

(2) Where all the parties to a suit or other proceeding regarding infringement of copyright in any work agree in writing that the suit or proceeding, as the case may be, be referred to the decision of the Board, the suit or other proceeding shall, notwithstanding anything contained in sub-section (1), be referred to the Board for decision, and no court or other tribunal shall hear, try or entertain such suit or proceeding.

(3) The decision of the Board in any matter referred to it for decision under sub-section (2) shall, subject to the provisions as to appeal, be final, and shall be executed in the manner provided in section 79.

CHAPTER XIV

OFFENCES AND PENALTIES

66. Offences of infringement of copyright or other rights conferred by this Ordinance.—Any person who knowingly infringes or abets the infringement of—

- (a) the copyright in a work, or
- (b) any other right conferred by this Ordinance,

shall be punishable with fine which may extend to ¹[five thousand taka,] or with imprisonment which may extend to two years, or with both.

Explanation.—Construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work, shall not be an offence under this section.

67. Possession of plates for purpose of making infringing copies.—If any person knowingly makes or has in his possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be punishable with fine which may extend to ¹[five thousand take,] or with imprisonment which may extend to two years, or with both.

68. Penalty for making false entries in the Register, etc., or producing or tendering false evidence.—Any person who,—

- (a) makes or causes to be made a false entry in the Register of Copyrights, or
- (b) makes or causes to be made a writing falsely purporting to be a copy of any entry in the Register, or
- (c) produces or tenders or causes to be produced or tendered as evidence any such entry or writing, knowing the same to be false,

shall be punishable with fine which may extend to ¹[five thousand taka], or with imprisonment which may extend to two years, or with both.

¹Subs. by Act No. LIV of 1974, s. s. 66, 67, 68, for "five thousand Rs."

69. Penalty for making false statements for the purpose of deceiving or influencing any authority or officer.—Any person who,—

- (a) with a view to deceiving any authority or officer in the performance of any of his functions under any of the provisions of this Ordinance, or
- (b) with a view to inducing or influencing the doing or omission of anything in relation to this Ordinance or any matter thereunder,

makes a false statement or representation knowing the same to be false, shall be punishable with fine which may extend to ¹[five thousand taka,] or with imprisonment which may extend to two years or with both.

70. False attribution of authorship, etc.—Whosoever—

(1) Inserts or affixes the name of any person in or on a work of which that person is not the author, or in or on a reproduction of such a work, in such a way as to imply that such person is the author of the work ; or

(2) publishes, or sells or lets for hire, or by way of trade offers, exposes for sale or hire, or by way of trade exhibits in public a work in or on which the name of a person has been inserted or affixed in such a way as to imply that such person is the author of the work, or the publisher of the work, who to his knowledge is not the author or the publisher, as the case may be, of such work ; or

(3) does any of the acts mentioned in clause (2) in relation to, or distributes, reproductions of a work, being reproductions in or on which any person's name has been inserted or affixed in such a way as to imply that such person is the author of the work, who to his knowledge is not the author of such work, or performs in public, or broadcasts the work as being the work of a particular author, who to his knowledge is not the author of such work ;

shall be punishable with fine which may extend to five thousand ²[taka], or with imprisonment which may extend to two years, or with both.

71. Offences by companies.—(1) Where any offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for, the conduct of the business of the company, as well as the company shall be deemed to be guilty of such offence and shall be liable to be proceeded against and 'punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Ordinance has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company such director, manager, Secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

¹Subs. by Act No. LIV of 1974, s. 69 for "five thousand rupees".

²Subs. by Ord. No. XX of 1978, s. 70 for "rupees."

Explanation:—For the purposes of this section—

- (a) “company” means any body corporate and includes a firm or other association of persons; and
- (b) “director” in relation to a firm means a partner in the firm.

72. Cognizance of offences.—No court inferior to that of a Magistrate of the first class shall try any offence under this Ordinance.

73. Power of the court to dispose of infringing copies or plates for purpose of making infringing copies.—The court before which any offence under this Ordinance is tried may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be destroyed or delivered to the owner of the copyright or otherwise dealt with as the court may think fit.

74. Powers of police to seize infringing copies.—(1) Where a Magistrate has taken cognizance of any offence under section 72 in respect of the infringement of copyright in any work, it shall be lawful for any police officer, not below the rank of sub-inspector, to seize, with warrant from the Magistrate, all copies of the work which appear to him to be infringing copies of the work and all copies so seized shall, as soon as practicable, be produced before the Magistrate :

Provided that no such copy as is owned by any public library, or a library attached to an educational institution or a non-profit library available for use by the public free of charge or is in the possession of any person for his *bona fide* use shall be seized.

(2) Any person having an interest in any copies of a work seized under sub-section (1) may, within fifteen days of such seizure, make an application to the Magistrate for such copies being restored to him and the Magistrate, after hearing the applicant and the complainant and making such further inquiry as may be necessary, shall make such order on the application as he may deem fit.

CHAPTER XV

APPEALS

75. Appeals against certain orders of Magistrate.—Any person aggrieved by an order made under section 73 or sub-section (2) of section 74 may, within thirty days of the date of such order, appeal to the court to which appeals from the court making the order ordinarily lie, and such appellate court may direct that execution of the order be stayed pending disposal of the appeal.

76. Appeals against orders of Registrar.—Any person aggrieved by any final decision or order of the Registrar may, within three months from the date of the decision or order, appeal to the Board :

Provided that the Registrar shall not sit as a member of the Board when the Board hears an appeal under this section.

77. Appeals against orders of the Board.—(1) Any person aggrieved by any final decision or order of the Board, not being a decision or order made in an

appeal under section 76 may, within three months from the date of such decision or order, appeal to the high Court : 1*****

Provided that no such appeal shall lie against a decision of the Board under sub-section (2) of section 4 and sub-section (2) of section 6.

(2) In calculating the period of three months provided for an appeal under section 76 and sub-section (1), the time taken in granting a certified copy of the order or record of the decision appealed against shall be excluded.

CHAPTER XVI

MISCELLANEOUS

78. **Registrar and Board to possess certain powers of civil court.**—The Registrar and the Board shall have the powers of civil court when trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document ;
- (c) receiving evidence on affidavits ;
- (d) issuing commissions for the examination of witnesses or documents ;
- (e) requisitioning any public record or copy thereof from any court or office ;
- (f) any other matter of procedure which may be prescribed.

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Registrar or the Board, as the case may be, shall be the whole of Bangladesh.

79. **Order for payment of money passed by Registrar or Board to be executable as a decree.**—Every order made by the Registrar or the Board under this Ordinance for the payment of any money or by the ¹[High Court] in any appeal against any such order of the Board shall, on a certificate issued by the Registrar, the Board or the Registrar or the ¹[High Court], as the case may be, be deemed to be a decree of a civil court and shall be executable in the same manner as a decree of such Court.

80. **Indemnity.**—No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance.

81. **Certain person to be public servants.**—Every officer appointed under this Ordinance and every member of the Board shall be deemed to be a public servant within the meaning of section 21 of the ²[Penal Code] (Act XLV of 1860).

¹Omitted by Ord. No. XX of 1978.

¹Subs. by Ord. No. XX of 1978 for "High Court Division".

²Subs. by Ord. No. XX of 1978, s. 81, for "Pakistan Penal Code".

82. **Powers to make rules.**—(1) That Government may, after previous publication, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, the rules may provide for all or any of the following, namely :—

- (a) the term of office and conditions of service of the Chairman and other members of the Board ;
- (b) the form of complaints and applications to be made, and the licences to be granted, under this Ordinance ;
- (c) the procedure to be followed in connection with any proceeding before the Registrar or the Board ;
- (d) the manner of determining any royalties payable under this Ordinance, and the security to be taken for the payment of such royalties ;
- (e) the form of Register of copyrights to be kept under this Ordinance and the particulars to be entered therein ;
- (f) the matters in respect of which the Registrar and the Board shall have powers of a civil court ;
- (g) the fees which may be payable under this Ordinance ;
- (h) the regulation of business of the Copyright Office and of all things by this Ordinance placed under the direction or control of the Registrar.

83. (Omitted by the copyright (Amendment) Ordinance, 1978 (Ordinance No. XX of 1978).

84. **Savings and transitory provisions.**—(1) Where any person has before the commencement of this Ordinance, taken any action whereby he has incurred any expenditure or liabilities in connection with the reproduction or performance of any work in a manner which at the time was lawful or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the coming into force of this Ordinance, have been lawful, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such actions which are subsisting and valuable at the said date, unless the person who, by virtue of this Ordinance, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by the Board.

(2) Copyright shall not subsist by virtue of this Ordinance in any work in which copyright did not subsist immediately before the commencement of this Ordinance under any Act repealed by section 83.

(3) Where copyright subsisted in any work immediately before the commencement of this Ordinance, the rights comprising such copyright shall, as from the date of such commencement, be the rights specified in section 3 in relation to the class of works to which such work belongs, and where any new rights are conferred by that section the owner of such rights shall be—

- (a) in any case where copyright in the work was wholly assigned before the commencement of this Ordinance, the assignee or his successor-in-interest ; and

(b) In any other case, the person who was the first owner of the copyright in the work under any Act repealed by sections 83 or his legal representatives.

(4) Except as otherwise provided in this Ordinance, where any person was entitled immediately before the commencement of this Ordinance to copyright in any work or any right in such copyright or to an interest in any such right, he shall continue to be entitled to such right or interest for the period for which he would have been entitled thereto if this Ordinance had not come into force.

(5) Nothing contained in this Ordinance shall be deemed to render any act done before its commencement an infringement of copyright if that act would not otherwise have constituted such an infringement.