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No. 2 of 2004

## AN ACT TO AMEND THE COPYRIGHT ACT

[Date of Assent — 24th June, 2004]

### Enacted by the Parliament of The Bahamas

**Short title** 1.(1) This Act, which amends the Copyright Act, may be cited  
**and** as the Copyright (Amendment) Act, 2004.  
**commence-** (2) This Act shall come into operation on such day as the  
**ment.** Minister may, by notice published in the Gazette, appoint.

1.10.09 - 90/09  
Ch. 323.

**Amendment** 2. Subsection (1) of section 2 of the principal Act is amended -  
**of section 2** (a) in the insertion in the appropriate alphabetical order  
**of principal** of the following definitions -  
**Act.** "broadcast" means the transmission by wireless telegraphy  
of visual images, sounds or other information for  
reception by or presentation to members of the public  
and references to "broadcasting" shall be construed  
accordingly;  
"cable programme" means any item included in a cable

programme service;

"cable programme service" means a service which consists wholly or mainly in sending visual images, sounds or other information for reception by or presentation to members of the public by means of a telecommunications system other than wireless telegraphy; however the term does not include -

- (a) service or part of a service of which it is an essential feature that while visual images, sounds or other information are being conveyed by the person providing the service there will or may be sent from each place of reception, by means of the same system or (as the case may be) the same part of it, information (other than signals sent for the operation or control of the service) for reception by the person providing the service or other persons receiving it;

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(b) a service run for the purpose of a business

where -

(i) no person except the person carrying on the business is concerned in the control of the apparatus comprised in the system;

(ii) the visual images, sounds or other information are conveyed by the system solely for purposes internal to the running of the business and not by way of rendering a service or providing amenities for others; and

(iii) the system is not connected to any other telecommunications system;

(c) a service run by a single individual where-

(i) all the apparatus comprised in the system is under his control;

(ii) the visual images, sounds or other information conveyed by the system are conveyed solely for domestic purposes

of his; and

(iii) the system is not connected to any other telecommunications system;

(d) services where -

(i) all the apparatus comprised in the system is situated in, or connects, premises which are single occupation; and

(ii) the system is not connected to any other telecommunications system, other than services operated as part of the amenities provided for residents or inmates of premises run as a business; and

(e) services which are, or to the extent that they are, run for persons providing broadcasting or cable programme services or providing programmes for such services;

"electronic" means actuated by electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical



energy, and "in electronic form" means in a form

usable only by electronic means;

"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 on the coming into operation of any provisions of this Act, or in any other 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) of section 22A;

"telecommunications system" means a system for conveying visual images, sounds or other information by electronic means;

"wireless telegraphy" means the sending of electromagnetic energy over paths not provided by a material substance construed or arranged for that purpose;".

- (b) by the deletion of the definition of "secondary transmission" and the replacement thereof of

the following -

"secondary transmission" means the simultaneous transmission of a primary transmission, unless delayed for technical reasons, but does not include any transmission over the Internet or any similar means of online delivery without the consent of the copyright owner;"

**Amendment of section 9 of the principal Act.** 3. Subsection (1) of section 9 of the principal Act is amended by the repeal and replacement of paragraphs (d) and (e) with the following paragraphs

"(d) in the case of a literary, musical, dramatic and choreographic, and motion pictures and other audiovisual works, to perform the copyright work publicly;

(e) in the case of a literary, musical, dramatic and choreographic, artistic works, including the individual sequence images of a motion picture audiovisual work, to display the copyright work publicly; and

(f) to broadcast the copyright work or include it in a cable programme service."

**Amendment of section** 4. Subsection (4) of section 12 of the principal Act is repealed and replaced as follows -



12 of the  
principal  
Act.

"(4) In this section-

"derogatory treatment" means, in relation to a work,

any distortion, mutilation or other modification of  
that work which would be prejudicial to its author's  
reputation."

Amendment  
of section

5. Subsection (2) of section 22 of the principal Act is repealed and  
replaced as follows -

22 of the  
principal  
Act.

" (2) A licensee under an exclusive licence shall have the same  
rights against a successor in title who is bound by the licence as he has against  
the person granting the licence."

Insertion  
of new

6. The principal Act is amended by the insertion immediately after  
section 22 of the following section -

section 22A  
into the  
principal  
Act.

"Future  
copy-  
right.

22A. (1) Where by an agreement made  
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 (in whole or in part) 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 (in whole or in part, 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) Where a licence is granted by a prospective owner of any copyright, that licence 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 without (as the case may be), the licence of the prospective owner of the copyright shall be construed accordingly."

**Amendment  
of section  
75 of the  
principal  
Act.**

7. Section 75 of the principal Act is amended -
- (a) in paragraph (b), by the insertion immediately after the word "if" of the words "and to the extent that"; and
  - (b) by the repeal of paragraph (f) and the re-lettering of paragraphs (g) and (h) as paragraphs (f) and (g) respectively; and
  - (c) in the new paragraph (f), by the insertion of the word "the" after the words "directed to" occurring therein.

**Amendment  
of section  
83 of the  
principal  
Act.**

8. Section 83 of the principal Act is amended by renumbering the section as subsection (1) and by the insertion thereafter of the following -
- " (2) For the purposes of this section "transmission" means communication and reception over the air and not encrypted.
  - (3) For the avoidance of doubt, it is hereby declared that this section shall not apply to the Internet."



**Amendment** 9. Section 132 of the principal Act is amended by renumbering the  
**of section** section as subsection (1) and by the insertion thereafter of the following -  
**132 of the** " (2) The Performers' Protection Act is repealed."  
**principal**  
**Act.**  
**Ch. 348**  
**1987 Revised**  
**Edition.**