



# INDUSTRIAL AND COMMERCIAL PROPERTY (PROTECTION) (AMENDMENT) ACT, 1957.

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**INDUSTRIAL AND COMMERCIAL PROPERTY (PROTECTION)  
(AMENDMENT) ACT, 1957.\***

AN ACT TO AMEND THE INDUSTRIAL AND COMMERCIAL PROPERTY (PROTECTION) ACTS, 1927 AND 1929, SO AS TO IMPLEMENT THE REVISED INDUSTRIAL PROPERTY CONVENTION SIGNED AT LONDON IN 1934, THE REVISED BERNE COPYRIGHT CONVENTION SIGNED AT BRUSSELS IN 1948 AND THE UNIVERSAL COPYRIGHT CONVENTION SIGNED AT GENEVA IN 1952 AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID.

[13th July, 1957.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

**1.**—In this Act—

“the Principal Act” means the Industrial and Commercial Property (Protection) Act, 1927 (No. 16 of 1927);  
“the Act of 1929” means the Industrial and Commercial Property (Protection) (Amendment) Act, 1929 (No. 13 of 1929).

**2.**—Section 25 of the Principal Act (which relates to the grant and sealing of patents) is hereby amended by the addition thereto of the following subsections:

“(3) The controller, on request and on being satisfied that the person by or in respect of whom the request is made is the true and first inventor of an invention, shall cause him to be mentioned as the inventor in any patent granted for the invention, but such mention shall not confer or derogate from any rights under the patent.

(4) A request under subsection (3) of this section shall be made within two months from the date of the advertisement of the acceptance of a complete specification of the invention.

(5) An appeal shall lie from the decision of the controller under subsection (3) of this section to the law officer.”

**3.**—Section 43 of the Principal Act (which relates to the prevention of abuse of monopoly rights) is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Any person interested may, after three years from the grant of a patent, apply to the controller alleging that there has been an abuse of the monopoly rights thereunder and asking for relief under this section, save that, if the relief sought is the revocation of the patent, such application shall not be made until two years have elapsed from the grant of the first compulsory licence under paragraph (b) or paragraph (c) of subsection (3) of this section.”;

and

(b) by the substitution in paragraph (a) of subsection (2) of “from the date of the grant of the patent” for “from the date of the application for the patent”.

**4.**—

(1) Where a vessel or aircraft registered in foreign state or a land vehicle owned by a person ordinarily resident in a foreign state comes into the State temporarily or accidentally only, the rights conferred by a patent for an invention shall not be deemed to be infringed by the use of the invention—

(a) in the body of the vessel or in the machinery, tackle, apparatus or other accessories thereof, so far as the invention is used on board the vessel and for its actual needs only; or

(b) in the construction or working of the aircraft or land vehicle or of the accessories thereof, as the case may be.

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\* The official translation of this Act is printed opposite.

(2) This section shall not extend to vessels, aircraft or land vehicles of any foreign state of which the laws do not confer corresponding rights with respect to the use of inventions in vessels, aircraft and land vehicles of the State while in that foreign state.

(3) Section 61 of the Principal Act is hereby repealed.

5.—Paragraph (b) of subsection (1) and subsection (2) of section 71 of the Principal Act (which relates to delivery on sale of articles to which a registered design has been applied) are hereby repealed.

6.—Section 75 of the Principal Act (which relates to the cancellation of the registration of designs) is hereby amended by the deletion of the proviso to subsection (1) and the insertion in lieu thereof of the following:

“Provided that, if the application be on the last-mentioned ground and the controller is satisfied that the time which has elapsed from the date of registration has been insufficient for such application by manufacture in the State—

- (i) the controller may adjourn the application for such time as he may deem sufficient for that purpose,
- (ii) the controller shall not order the cancellation of the registration of the design but may order the grant of a compulsory licence.”

7.—

(1) Section 152 of the Principal Act (which relates to international arrangements for the protection of inventions, designs or trade marks) is hereby amended by the insertion of the following subsection after subsection (4):

“(4A) Where the same applicant for a patent under this section has put in two or more specifications for inventions which are cognate or modifications one of the other, the provisions of section 31 of this Act shall apply in like manner as those provisions apply to an ordinary application under this Act.”

(2) Notwithstanding subsection (1) of section 152 of the Principal Act, a patent to which a person is declared to be entitled by that subsection shall have, in lieu of the date specified therefor in that subsection, the date of the application in the State for such patent.

(3) Subsection (1) of section 152 of the Principal Act is hereby amended by the substitution in paragraphs (b) and (c) of “six months” for “four months”.

8.—Section 154 of the Principal Act (which relates to copyright) as amended by section 10 of the Act of 1929, is hereby amended—

(a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) to produce, reproduce, perform or publish any translation of the work: provided that such right (save as regards the performance of translations of dramatic or musical works) shall, as regards translations into the Irish language, cease to exist at the expiration of the period of seven years from the first publication of the work or of the last instalment of the work in any country which is a party to the International Union for the Protection of Literary and Artistic Works, after the expiration of which period any Irish citizen may, under and in accordance with subsection (2A) of this section, obtain a licence to translate the work into the Irish language and to publish such translation unless within that period there shall have been published in the State by or with the authority of the owner of the copyright, a translation of the work into the Irish language: provided also that the Government may by order exclude from the operation of the foregoing proviso all or any class or classes of works the authors of which were at the date of the making of such works citizens of any country not a party to the said International Union which the Government shall think fit to specify in such order;”;

(b) by the insertion immediately after subsection (2) of the following subsections:

“(2A) Where, on application being made to him, the controller is satisfied that the applicant has requested, and been denied, permission by the owner of the copyright to make and publish a translation of a particular work into the Irish language or that, after due diligence, he was unable to find the owner, the

controller may order the grant to the applicant of a non-exclusive licence for the purpose of paragraph (a) of subsection (2) of this section on such terms and subject to such conditions as the controller thinks fit.

(2B) An appeal shall lie from any decision of the controller under subsection (2A) of this section to the court.”

**9.—**

(1) The term for which copyright shall subsist shall, except as otherwise expressly provided by the Principal Act, as amended by this Act, be the life of the author and fifty years from the 1st day of January next after his death.

(2) Sections 156 and 157 of the Principal Act are hereby repealed.

**10.—**Section 166 of the Principal Act (which relates to works of joint authors) is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who dies last and for a term of fifty years after his death, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies last.”

**11.—**Section 175 of the Principal Act (which empowers the Government, by order, to apply Part VI of that Act to works first published in other countries) is hereby amended by the insertion immediately after paragraph (a) of subsection (1) of the following paragraph:

“(aa) to published works the authors of which were, at the time of publication, citizens of a country to which the order relates. in like manner as it they were first published within the State;”.

**12.—**Section 177 of the Principal Act is hereby amended—

- (a) by the deletion, in the definition of “dramatic work” in subsection (1), of “where the arrangement or acting form or the combination of incidents represented give the work an original character”;
- (b) by the substitution, in subsection (3), of “thirty days” for “fourteen days”

**13.—**

(1) This section applies to the following organisations, namely, the United Nations and the organs thereof and the specialised agencies in relationship therewith, the Organisation of American States and any other international organisation specified in an order made under subsection (6) of this section.

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

- (a) copyright would not subsist in the work apart from this subsection, but
- (b) if the author of the work had been an Irish citizen at the time when it was made, copyright would have subsisted in the work immediately after it was made and would thereupon have vested in the organisation,

copyright shall subsist in the work as if the author had been an Irish citizen when it was made, that copyright shall continue to subsist so long as the work remains unpublished, and the organisation shall, subject to the provisions of Part VI of the Principal Act, as amended by the Act of 1929 and this Act, be entitled to that copyright.

(3) Where an original literary, dramatic, musical or artistic work is first published by or under the direction or control of an organisation to which this section applies in such circumstances that, apart from this subsection, copyright does not subsist in the work immediately after the first publication thereof, and either—

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

copyright shall subsist in the work (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) as if it had been first published within the State, that copyright shall subsist until the end of the period of fifty years from the end of the year in which the work was first published, and the organisation shall, subject to the provisions of Part VI of the Principal Act, as amended by the Act of 1929 and this Act, be entitled to that copyright.

(4) The provisions of Part VI of the Principal Act, as amended by the Act of 1929 and this Act, with the exception of those relating to the subsistence, duration or ownership of copyright, shall apply in relation to copyright subsisting by virtue of this section as they apply in relation to copyright subsisting by virtue of the said provisions.

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

(6) The Government may, if they think fit, by order direct that the provisions of subsections (2), (3), (4) and (5) of this section shall apply to such international organisations as may be specified in the order.

**14.—**

(1) This Act may be cited as the Industrial and Commercial Property (Protection) (Amendment) Act, 1957.

(2) The Industrial and Commercial Property (Protection) Acts, 1927 to 1949, and this Act shall be construed together as one and may be cited together as the Industrial and Commercial Property (Protection) Acts, 1927 to 1957.