



An Act to Amend the Copyright Act (No. 29-1999)

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Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

Short Title, Construction and Commencement

1. This Act may be cited as the Copyright (Amendment) Act, 1999, and shall be read and construed as one with the Copyright Act (hereinafter referred to as the principal Act) and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Amendment of Section 2 of Principal Act

2. Section 2 of the principal Act is amended by deleting the definition of “literary work” and substituting therefor the following—

“literary work” means any work, other than a dramatic or musical work, which is written, spoken or sung, and accordingly includes—

(a) a written table or compilation;

(b) a computer programme,

and for the purpose of paragraph (a) of this definition, “compilation” means a collection of works, data or other material, whether in machine-readable form or any other form, which constitutes an intellectual creation by reason of the selection or arrangement of the works, data or other material comprised in it;”.

Amendment of Section 6 of Principal Act

3. Section 6 of the principal Act is amended by inserting next after subsection (3), the following as subsection (3A)—



“(3A) Copyright subsisting in a literary work that is a compilation does not extend to any works, data or other material comprised in the compilation and does not affect any copyright which may exist in such works, data or other material.”.

Insertion of New Section 136A in Principal Act

4. The principal Act is amended by inserting next after section 136, the following as section 136A—

“Unauthorized Decoders

136A.—(1) A person who—

- (a) makes or imports for commercial purposes;
- (b) sells or lets for hire;
- (c) offers or exposes for sale or hire; or
- (d) advertises for sale or hire,

any unauthorized decoder shall be guilty of an offence and liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(2) It is a defence to any prosecution for an offence under this section for the defendant to prove that he did not know, and had no reasonable ground for believing, that the decoder was an unauthorized decoder.

Insertion of New Sections 136B and 136C in Principal Act

5. The principal Act is amended by inserting in Part X, immediately before section 137, the following as sections 136B and 136C—

“Unauthorized Reception of Programmes: Rights and Remedies

136B.—(1) A person who—

- (a) makes charges for the reception of programmes included in a broadcasting or cable programme service provided from a place in Jamaica;
- (b) sends encrypted transmissions of any other description from a place in Jamaica; or
- (c) has rights in the contents of any programme referred to in paragraph (a) or any transmission referred to in paragraph (b),

has the rights and remedies specified in subsection (2).

(2) The rights and remedies mentioned in subsection (1) are—



- (a) the same rights and remedies as are exercisable under section 32(1) and
- (2) by a copyright owner, in relation to an infringement of copyright; and
- (b) are exercisable by a person referred to in subsection (1) against a person who—
- (i) makes or imports for commercial purposes or sells or lets for hire, offers or exposes for sale or hire or advertises for sale or hire, any unauthorized decoder; or
- (ii) without lawful authority, receives or distributes programmes from an encrypted transmission for the purpose of distributing the programmes to other persons under commercial arrangements with them.
- (3) Subsection (3) of section 32 shall apply with necessary modifications in relation to proceedings for infringement of the rights conferred by this section, and accordingly the reference in that subsection to the defendant not knowing or having reason to believe that copyright subsisted in the work to which the action relates shall be construed as a reference to his not knowing or having reason to believe that his acts infringed the rights conferred by this section.
- (4) The person referred to in subsection (1) also has, in relation to any unauthorized decoder, the same rights as are exercisable by a copyright owner in relation to any infringing copy, under section 33 (delivery up of certain articles).
- (5) Section 137 applies with the necessary modifications, in relation to the disposal of anything delivered up or seized by virtue of subsection (4).
- (6) This section shall not have effect in relation to any act done before the date of commencement of the Copyright (Amendment) Act, 1998.

Definition of Terms

136C. For the purposes of sections 136A and 136B—

“apparatus” includes any device, component or electronic data;

“decoder” means any apparatus which is designed or adapted to enable (whether on its own or with any other apparatus) an encrypted transmission to be decoded;

“transmission” means any programme included in a broadcasting or cable programme service which is provided from a place in Jamaica; and

“unauthorized” in relation to a decoder, means a decoder which will enable encrypted transmissions to be viewed in the decoded form without—

- (a) payment of the fee (however imposed) which the person making the transmission, or on whose behalf it is made, charges for viewing those transmissions, or viewing any service of which they form part; or
- (b) the authority of a person referred to in section 136B (1).”.



Amendment of Section 144 of Principal Act

6. Section 144 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting the fullstop appearing at the end of paragraph (e) and substituting therefor a semi-colon; and

(ii) by adding the following as paragraph (f)—

“(f) in relation to the protection of persons who make charges for programmes included in a broadcasting or cable programme service provided in that country or an encrypted transmission sent from that country as they apply in relation to the protection of persons who make charges in relation to programmes included in a broadcasting or cable programme service provided from Jamaica or an encrypted transmission sent from Jamaica, as the case may be.”;

(b) in subsection (3)—

(i) by deleting the fullstop appearing at the end of paragraph (b) and substituting therefor a semi-colon and the word “or”; and

(ii) by inserting next after paragraph (b) the following as paragraph (c)—

“(c) in relation to the rights and remedies provided by sections 136A and 136B, the country is a country as to which the Minister is satisfied that provision has been or will be made under its law giving adequate protection to persons making charges for programmes included in a broadcasting or cable programme service provided from Jamaica or an encrypted transmission sent from Jamaica, as the case may be.”;

(c) in subsection (4), by inserting immediately before the words “as may be appropriate” the words “or the distribution of programme-carrying signals transmitted by satellite”.

Insertion of New Section 145A in Principal Act

7. The principal Act is amended by inserting next after section 145 the following as section 145A—

“Denial of Protection: Programmes and Encrypted Transmissions

145A.—(1) If it appears to the Minister that the laws of a country fail to give adequate protection to persons who make charges for programmes included in a broadcasting or cable programme service provided from Jamaica, or an encrypted transmission sent from Jamaica, as the case may be, the Minister may act in accordance with subsection (2) in relation to that country.



(2) The Minister may, having regard to the nature and extent of the lack of protection, by order designate the country concerned and may provide either generally or in relation to such classes of case as are specified in the order, that no protection shall be given under this Act to persons who make charges for programmes included in a broadcasting or cable programme service provided from that country or an encrypted transmission sent from that country, as the case may be.”

Passed in the House of Representatives this 11th day of May, 1999.

Violet Neilson, C.D.
Speaker

Passed in the Senate this 18th day of June, 1999.

Syringa Marshall-Burnett, C.D.
President
