

# The Copyright (Amendment) Act, 1995 No. 9 of 1995

*Date of Assent: 13th December, 1995 Date of Commencement: Date of Publication*

An Act of Parliament to amend the Copyright Act

*Enacted by the Parliament of Kenya as Follows:—*

*Short Title*

**1.** This Act may be cited as the Copyright (Amendment) Act, 1995.

*Amendment of Section 2 of Cap. 130*

**2.** The Copyright Act, in this Act referred to as the principal Act is amended in section 2 (1)—

(a) by deleting, in the definition of “author”, the comma immediately after the word “undertaken” appearing in the seventh line and replacing it with a fullstop, and deleting the rest of the definition occurring thereafter;

(b) by deleting the definition of “broadcast” and replacing it with the following new definition—  
“broadcast” means the transmission by wire, or by wireless means including transmission by satellite, of images or sounds, or both, of a work or of information in such a way as to cause the images or sounds to be received by the public;

(c) by deleting the definition of “copy” and replacing it with the following new definition— “copy” means a reproduction of a work in any material form and includes any sound or visual recording of a work and any permanent or transient storage of a work in any medium by computer technology or other electronic means;

(d) by replacing the word “means” in the definition of “literary work” with the word “includes” and inserting after item (f) the following new items—

“(g) charts and tables;

(h) computer programmes;”

(e) by inserting in the definition of “work” immediately after the words “collections of works” the words “or mere data”.

*Amendment of Section 3 of Cap. 130*

**3.** The principal Act is amended in section 3 (1) by replacing the semi-colon at the end of paragraph (f) with a fullstop and deleting the word “and” and paragraph (g).

*Amendment of Section 4 of Cap. 130*

**4.** The principal Act is amended in section 4—

(a) by deleting item 5 of subsection (2); and

(b) by deleting subsection (5).

*Amendment of Section 5 Cap. 130*

**5.** The principal Act is amended in section 5 by replacing subsection (1) with the following

new subsection—

“(1) Copyright shall be conferred by this section on every work, other than a broadcast which is eligible for copyright and which—

(a) being a literary, musical or artistic work or any audio-visual work, is first published in Kenya; or

(b) being a sound recording is made or first published in Kenya.”

*Amendment of Section 6 of Cap. 130*

**6.** The principal Act is amended in section 6—

(a) by replacing subsection (1) with the following new subsection—

“(1) Copyright is conferred under this section on any work eligible for copyright which has been created pursuant to a commission from the Government or such international body or no-governmental body as may be prescribed, and on which no copyright has been conferred under section 4 (1) or 5 (1)”;

(b) by deleting the words “twenty-five years” occurring in subsection (2) and inserting the words “fifty years”;

(c) by replacing subsection (3) with the following new subsection—

“(3) Copyright conferred by this section on any audio-visual work, photograph, sound recording or broadcast shall have the same duration as is provided for by section 4 in relation to a similar work.”

*Amendment of Section 7 of Cap. 130*

**7.** The principal Act is amended in section 7—

(a) by deleting in subsection (1) the introductory sentence and replacing it with the following— “(1) Copyright in a literary, musical or artistic work or audio-visual work shall be the exclusive right to control the doing in Kenya of any of the following acts, namely the reproduction in any material form of the original work or its translation or adaptation, the distribution to the public of the work by way of sale, lease, hire, loan, importation or similar arrangement, and the communication to the public and the broadcasting of the whole work or a substantial part thereof, either in its original form or in any form recognisably derived from the original; but copyright in any such work shall not include, the right to control—”;

(b) by deleting the semi-colon at the end of paragraph (a) and adding the words “subject to acknowledgement of the source;” and

(c) by deleting the word “lawful” appearing in paragraph (k) and inserting the words “authorised by the copyright owner of the work” immediately after the words “broadcast by that broadcasting authority” occurring in the same paragraph.

*Amendment of Section 9 of Cap. 130*

**8.** The principal Act is amended in section 9—

(a) by deleting in subsection (1) (b) the words “for commercial purposes”;

(b) by inserting the following new paragraph immediately after paragraph (b)—

“(c) the importation into Kenya; or”

(c) by renumbering paragraph (c) as paragraph (d); and

(d) by deleting subsection (6) and replacing it with the following new subsection—

(6) Any person who, for commercial purposes, makes available any audio recording equipment for the purposes of enabling any other person to make single copies of any sound recording for his

personal or private use, without payment of the royalty levied under subsection (3) shall be guilty of an offence.”

*Section 11 of Cap. 130*

**9.** The principal Act is amended by repealing section 11.

*Amendment of Section 13 of Cap. 130*

**10.** The principal Act is amended in section 13 (1) by deleting the comma after the word “employment” in paragraph (ii) of the proviso and inserting the words “under a contract of service,”

*Amendment of Section 17 of Cap. 130*

**11.** The principal Act is amended in section 17—

(a) in subsection (1) by inserting the words “Subject to subsection (2),” before the word “in”;

(b) by inserting the following new subsection immediately after subsection (1)—

“(2) Where a dispute has been referred to the competent authority under this section, the competent authority shall, in accordance with such procedure as may be prescribed, give both parties an opportunity to present their respective cases, either in person or through representatives, both orally and in writing.”

(c) by renumbering existing subsections (2) and (3) as subsections (3) and (4) respectively.

*Amendment of Section 18 of Cap. 130*

**12.** The principal Act is amended in section 18 (1)—

(a) by inserting the words “or published” immediately after the word “made” in paragraphs (c) and deleting the word “or” at the end thereof; and

(b) by deleting paragraph (d).