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PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 2nd September, 1992

The following Acts of Majlis-e-Shoora (Parliament) received the assent of the President on the 30th ~~September~~ ^{August}, 1992, and are hereby published for general information:—

An Act further to amend the Copyright Ordinance, 1962

WHEREAS it is expedient further to amend the Copyright Ordinance, 1962 (XXXIV of 1962), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Copyright (Amendment) Act, 1992.

(2) It shall come into force on such date as the Federal Government may, by notification in the official Gazette, appoint.

2. **Amendment of section 2, Ordinance XXXIV of 1962.**—In the Copyright Ordinance, 1962 (XXXIV of 1962), hereinafter referred to as the said Ordinance, in section 2,—

(a) after clause (c), the following new clause shall be inserted, namely:—

“(ca) “audio-visual work” means a work which consists of a series of related images which are intrinsically intended to be shown by the use of a machine or device, such as a projector, viewer or electronic equipment, together with accompanying sound, if any, regardless of the nature of the material object, such as film or tape, in which the work is embodied;”;

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- (b) in clause (f), after the words "include a", the words "periodical or" shall be inserted;
- (c) in clause (h), after the words "of visual images", the commas and words ",including video films of every kind," shall be inserted;
- (d) after clause (h), amended as aforesaid, the following new clauses shall be inserted, namely:—

"(ha) "copy" includes any material object in which a work is fixed by any method and from which the work can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device;

"(hb) counterfeit copy" means a copy which is an imitation of another copy and appears to be, but is not, genuine;"

- (e) in clause (i), for the word "radio-diffusion" the words "broadcast or telecast" shall be substituted;
- (f) in clause (p), for the words "and compilations" the commas and words ",compilations and computer programmes, that is to say programmes recorded on any disc, tape, perforated media or other information storage device, which, if fed into or located in a computer or computer-based equipment is capable of reproducing any information" shall be substituted.
- (g) in clause (u), for the word "radio-diffusion" the word "broadcast" shall be substituted;
- (h) after clause (v), the following new clause shall be inserted, namely:—

"(va) "periodical" includes a publication with distinctive title intended to appear in successive numbers or in parts at regular or irregular intervals and, as a rule, for an indefinite time, each part generally containing articles by several contributors;"

- (i) for clause (z) the following shall be substituted, namely:—

"(z) "public libraries" means the National Library of Pakistan, Islamabad, and such other libraries as may be so declared by the Federal Government by notification in the official Gazette;"

3. **Amendment of section 3, Ordinance XXXIV of 1962.**—In the said Ordinance, in section 3, in sub-section (1),—

- (a) in clause (a), for sub-clause (vi) the following shall be substituted, namely:—

"(vi) to broadcast the work, or to communicate the broadcast of the work to the public by a loudspeaker or any other similar instrument;"

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- (b) in clause (c), for sub-clause (iv) the following shall be substituted, namely:—
“(iv) to broadcast the work;” and
- (c) in clause (d), in sub-clause (iv), for the word “radio-diffusion,” the word “broadcast” shall be substituted.

4. Amendment of section 14, Ordinance XXXIV of 1962.—In the said Ordinance, in section 14,—

- (a) in sub-section (1), in the second proviso, for the full-stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided further that the copyright in an unpublished work assigned by its author to any person or organization for the specific purpose of its publication shall revert to the author if such work is not published within a period of three years from the date of its assignment.”; and

- (b) after sub-section (2), the following new sub-section shall be inserted namely:—

“(2A) If the owner of a copyright, or the publisher to whom such right has been assigned, considers any of the terms of the assignment to be likely to affect his interests adversely, he may within one year of such assignment apply to the Board to consider such term and the Board may, after hearing both the parties, pass such order as it may deem fit; and the order of the Board shall be binding on both the parties.”.

5. Amendment of section 26, Ordinance XXXIV of 1962.—In the said Ordinance, in section 26, for clause (a) the following shall be substituted, namely:—

- “(a) “Broadcast” means communication to the public by any means of radio-diffusion, including communication by telecast, or by wire, or by both, and “broadcasting” shall be construed accordingly.”

6. Amendment of section 36, Ordinance XXXIV of 1962.—In the said Ordinance, in section 36, in sub-section (1),—

- (a) in clause (b),—
- (i) in the word “radio-diffusion” the word “broadcast” shall be substituted; and
- (ii) after the semi-colon at the end, the word “or” shall be added;
- (b) after clause (b), amended as aforesaid, the following new clause shall be inserted, namely:—
- “(c) is dead or is unknown or cannot be traced or found and republication of the work is necessary in the public interest.”;

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- (c) after the words "not reasonable", the commas and words "or that the owner of the copyright is dead or is unknown or cannot be traced or found and republication of the work is necessary in the public interest," shall be inserted; and
- (d) for the word "radio-diffusion", occurring for the second time, the word "broadcast" shall be substituted.

7. Amendment of section 37, Ordinance XXXIV of 1962.—In the said Ordinance, in section 37,—

- (1) in sub-section (1), after the word "Pakistan" at the end, the commas and words "not being English, French or Spanish" shall be added; and
- (2) in sub-section (4),—
- (a) after the word "exclusive", the words "or transferable" shall be inserted; and
- (b) in the proviso,—
- (i) in clause (a), for the words "seven years" the words "one year" shall be substituted;
- (ii) in clause (d), the commas and words "after consulting the representative body of authors recognised as such by the Federal Government for the purpose of this clause," shall be omitted; and
- (iii) clause (e) shall be omitted.

8. Insertion of new section 43A, Ordinance XXXIV of 1962.—In the said Ordinance, after section 43, the following new section shall be inserted, namely:—

- 43A. Branch of Copyright Office.**—(1) There shall be established for the purpose of facilitating the registration of copyrights, a Branch of the Copyright Office at such place in Pakistan as the Registrar may, with the approval of the Federal Government, determine.
- (2) The Branch Office shall discharge such functions of the Copyright Office as may be notified by the Registrar from time to time."

9. Amendment of section 44, Ordinance XXXIV of 1962.—In the said Ordinance, in section 44, after sub-section (3), the following new sub-section shall be added, namely:—

- (4) The Registrar may, with the approval of the Federal Government, assign any particular functions of the Registrar under this Ordinance to officers other than the Deputy Registrar of Copyrights."

10. Amendment of section 47, Ordinance XXXIV of 1962.—

- (a) in sub-section (1), for the words "three public libraries within thirty days from the date of its publication" the words and comma "public libraries within thirty days from the date of its publication, and shall also furnish to it such particulars relating thereto as may be prescribed" shall be substituted; and
- (b) in sub-section (2), after the word "Pakistan", the commas and word "Islamabad," shall be inserted.

11. Substitution of section 48, Ordinance XXXIV of 1962.—In the said Ordinance, for section 48 the following shall be substituted, namely:—

"48. *Delivery of periodicals and newspapers to public libraries.*—Subject to any rules that may be made under this Ordinance, but without prejudice to the provisions contained in section 36 of the Registration of Printing Press and Publications Ordinance, 1989 (VII of 1989), the publisher of every periodical or newspaper published in Pakistan shall deliver, at his own expense, one copy of each issue or such periodical or newspaper as soon as it is published to each of the public libraries, and shall also furnish to it such particulars relating thereto as may be prescribed."

12. Amendment of section 49, Ordinance XXXIV of 1962.—In the said Ordinance, in section 49,—

- (a) in the marginal heading, after the word "books", the comma and words ",periodicals and newspapers" shall be inserted; and
- (b) for the words and figure "is delivered under section 47" the comma, words and figures ",periodical or newspaper is delivered under section 47 or section 48" shall be substituted.

13. Amendment of section 50, Ordinance XXXIV of 1962.— In the said Ordinance, in section 50,—

- (a) for the word "fifty" the words "five hundred" shall be substituted;
- (b) after the word "book", occurring for the first time, the words "or periodical" shall be inserted;
- (c) after the word "book", occurring for the second time, the words "or periodical" shall be inserted; and
- (d) after the word "book", occurring for the third time, the comma and word ",periodical" shall be inserted.

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14. **Amendment of section 52, Ordinance XXXIV of 1962.**—In the said Ordinance, in section 52,—

- (a) in the marginal heading, after the word “books”, the comma and word “,periodicals” shall be inserted;
- (b) after the word “books” occurring for the first time, the comma and word “,periodicals” shall be inserted; and
- (c) after the word “books”, occurring for the second time, the words “or periodicals” shall be inserted.

15. **Amendment of section 57, Ordinance XXXIV of 1962.**—In the said Ordinance, in section 57, in sub-section (1), in clause (b), in sub-section (ii) for the word “radio-diffusion” the word “broadcast” shall be substituted.

16. **Insertion of new section 57-A, Ordinance XXXIV of 1962.**—In the said Ordinance, after section 57, amended as aforesaid, the following new section shall be inserted, namely:—

“57A Particulars to be included in records and video films.—(1) No person shall

publish a record in respect of any Pakistani work unless the following particulars are displayed on the record and on any container thereof, namely:—

- (a) the name and address of the person who has made the record;
- (b) the name and address of the owner of the copyright in such work; and
- (c) the year of its first publication.

(2) No person shall publish a video film in respect of any Pakistani work unless the following particulars are displayed in the video film when exhibited, and on the video cassette or other container thereof, namely:—

- (a) if such work is a cinematographic film required to be certified for exhibition under the provisions of the Motion Picture Ordinance, 1979 (XLIII of 1979), a copy of the certificate granted in respect of such work by the Central Board of Film Censors under sub-section (3) of section 5 of that Ordinance or by any other agency authorised by the Government for the purpose;
- (b) the name and address of the person who has made the video film and a declaration by him that he has obtained the necessary licence

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or consent from the owner of copyright in such work for making such video film; and

- (c) the name and address of the owner of the copyright in such work.”

17. **Substitution of section 65, Ordinance XXXIV of 1962.**—In the said Ordinance, for section 65 the following shall be substituted, namely:—

“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:

Provided that, where the person whose copyright in a work has been infringed does not intend to institute a suit or proceeding in the Court of the District Judge, he may, by petition in the prescribed manner, refer the matter to the Board for decision.

- (2) Where a petition has been filed under the proviso to sub-section (1), the Board, or a Committee consisting of the Chairman and not less than two members of the Board as the Chairman may appoint, shall consider the matter, and, after giving the parties an opportunity of being heard, pass such order as it thinks fit.
- (3) The decision of the Committee referred to in sub-section (2) shall be deemed to be the decision of the Board.
- (4) Where a matter has been referred to the Board under the proviso to sub-section (1), no court shall hear, try or entertain any suit or proceeding relating to that matter.
- (5) The decision of the Board shall, subject to the provisions as to appeal, be final, and shall be executed in the manner provided in section 79.”

18. **Amendment of section 66, Ordinance XXXIV of 1962.**—In the said Ordinance, in section 66, for the words and comma “fine which may extend to five thousand rupees, or with imprisonment which may extend to two years” the words and comma “imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees” shall be substituted.

19. **Insertion of new sections 66A, 66B, 66C and 66D, Ordinance XXXIV of 1962.**—In the said Ordinance, after section 66, amended as aforesaid, the following new sections shall be inserted, namely:—

“66A. *Penalty for publishing collections or compendiums of work which have been adapted, translated or modified in any manner without the authority of the owner of the copyright.*—Any person who knowingly publishes, or

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causes to be published, a collection or compendium of works which have been adapted, translated or modified in any manner without the authority of the owner of the copyright in the original works, or who fraudulently employs a title which tends to mislead the public or create confusion with another work published earlier, shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.

- 66B. *Penalty for unauthorised reproduction or distribution of counterfeit copies of sound recording and cinematographic work.*—Any person who unauthorisedly makes or distributes counterfeit ^{copies} of sound recording and cinematographic work for the purpose of business, profit or gain shall be *Punishable* ~~punishable~~ with imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.
- 66C. *Penalty for exploitation and appropriation of recording or audio-visual work intended for private use.*—Any person who for the purpose of business, profit or gain, exploits or appropriates any sound recording or audio-visual work intended for private use, shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.
- 66D. *Penalty for making copies or reproduction in excess of those authorised by the copyright owner or his successor in title.*—Any person who produces, or causes to be produced, copies or reproductions in excess of the number authorised by the copyright owner or his successor in title, shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.”.

20. **Amendment of sections 67, 68, 69 and 70, Ordinance XXXIV of 1962.** In the said Ordinance, in sections 67, 68, 69 and 70, for the words and comma “fine which may extend to five thousand rupees, or with imprisonment which may extend to two years”, wherever occurring, the words and comma “imprisonment which may extend to two years, or with fine which may extend to one hundred thousand rupees” shall be substituted.

21. **Insertion of new sections 70A and 70B, Ordinance XXXIV of 1962.**—In the said Ordinance, after section 70, amended as aforesaid, the following new sections shall be inserted, namely:—

“70A. *Penalty for contravention of section 57A.*—Any person who publishes a record or a video film in contravention of the provisions of section 57A, shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one hundred thousand rupees, or with both.

70B. *Enhanced fine in the case of subsequent offences.*—Where any person convicted for an offence punishable under section 66, 66A, 66B, 66C

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shall have effect as if for the words "one hundred thousand" therein the words "two hundred thousand" were substituted."

22. **Amendment of section 73, Ordinance XXXIV of 1962.**—In the said Ordinance, in section 73,—

- (a) in the marginal heading, for the words "or plates" the comma and words ",plates or recording equipment" shall be substituted;
- (b) after the word "plates", occurring for the first time, the words "or recording equipment" shall be inserted; and
- (c) after the word "plates", occurring for the second time, the words "or recording equipment used or intended to be used" shall be inserted.

23. **Amendment of section 74, Ordinance XXXIV of 1962.**—In the said Ordinance, in section 74,—

- (a) in the marginal heading, after the word "copies", the comma and words ",plates and recording equipment" shall be added;
- (b) for sub-section (1) the following shall be substituted, namely:—

"(1) Any police officer, not below the rank of Sub-Inspector, shall, if he is satisfied that an offence under Chapter XIV in respect of infringement of copyright in any work has been, is being, or is likely to be, committed, seize without warrant all copies of the work and all plates and recording equipments used for the purposes of making infringed copies of the work, wherever found, and all copies, plates and recording equipments so seized shall, as soon as practicable, be produced before a Magistrate:

Provided that no such copy, plate or recording equipment 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."; and

- (c) in sub-section (2),—
 - (i) after the word "work", the comma and words ",plates or recording equipment" shall be inserted; and
 - (ii) after the word "copies", the comma and words ",plates or recording equipment" shall be inserted.

(d) after sub-section (2), the following new sub-section (3) shall be added, namely:—

“(3) All offences under this Ordinance shall be cognizable and non-bailable.”.

24. Insertion of new section 74A, Ordinance XXXIV of 1962.—In the said Ordinance, in Chapter XIV, after section 74, amended as aforesaid, the following new section shall be added, namely:—

“74A. *Power of Magistrate to award compensation for offences under this Chapter.*—(1) The Magistrate may, when passing a sentence of fine, direct that an amount not exceeding fifty per cent of the fine imposed by him but commensurate with the loss suffered by the party shall be paid as compensation to the person whose right has been infringed or to the heirs or legal representatives of such person.

(2) payment of any compensation to any person under sub-section (1) shall be without prejudice to his right to any claim in a suit or other proceeding which may be instituted, or may be pending in a Court, in relation to the same matter.”.

25. Amendment of section 75, Ordinance XXXIV of 1962.—In the said Ordinance, in section 75, for the words, bracket and figures “or sub-section (2) of section 74” the comma, words, brackets, figures and letter “”, sub-section (2) of section 74 or sub-section (1) of section 74A” shall be substituted.

RAHATULLAH KHAN JARRAL,
Secretary.