

ACT

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THE COPYRIGHT ACT, 2011

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SIGNED this 29th day of July, 2011.

DR. ERNEST BAI KOROMA,
President.



No. 8



2011

THE COPYRIGHTACT, 2011.

Being an Act to provide for the protection of copyright in Short title.
Sierra Leone and for other related matters.

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ENACTED by the President and Members of Parliament in this Date of com-
present Parliament assembled. mencement.

PART I—PRELIMINARY

1. (1) In this Act unless the context otherwise requires –

“adaptation” means the modification of a pre-existing work from one kind of work to another and consists in altering work within the same kind to make it suitable for different conditions of exploitation, and may also involve altering the composition of the work;

“artistic work” means any of the following works: -

- (a) paintings, drawings, etchings, lithographs, woodcuts, engravings, prints, fashion designs or wood designs;
- (b) photography not comprised in an audiovisual film;
- (c) maps, plans or diagrams;
- (d) sculpture;
- (e) works of architecture in the form of buildings or models; or
- (f) works of applied art, whether handicraft or produced on an industrial scale;

“audiovisual work” means a work that consists of a series of related images which import the impression of motion, with or without accompanying sounds, susceptible of being made audible and where accompanied by sounds, susceptible of being made audible;

“author” means a person who created a work, and includes in the case of –

(a) broadcast transmitted from within a country, the person by whom the arrangements for the making of the transmission within that country were undertaken;

(b) an audiovisual work, the person by whom the arrangements for the making of the work were undertaken;

(c) a sound recording –

(i) the person by whom the arrangements for the making of the sound recording were made; or

(ii) of a musical work, the artist in whose name the recording was made,

unless in either case the parties to the making of the sound recording, provide otherwise by contract;

“broadcasting” means the communication of a work, performance or a sound recording to the public by wireless transmission, including transmission by satellite;

“broadcasting organisation” means an authority established under any enactment in Sierra Leone or elsewhere providing broadcasting services for public reception;

“cable programmes” means visual images, sounds or other information sent by means of a telecommunication system, otherwise than by wireless telegraphy, for reception-

(a) at two or more places (whether for simultaneous reception or at different times) in response to request by different users; or

(b) for presentation to members of the public;

“choreographic work” means a composition of movements for dancing or any other patterned succession of gestures mostly created to accompanying music and includes other forms of dance, whether or not in dramatic form;

“Collecting Society” means the Collecting Society of Sierra Leone established by section 54;

“collective licence” means a licence issued by a collecting society under which copies of a work can be made;

“communication to the public” means the transmission by wire or without wire, of the images or sounds, or both of a work, a performance or a sound recording or broadcast in such a way that the images or sounds can be perceived by persons outside the normal circle of a family and its closest social acquaintances at a place or places so distant from the place where the transmission originates –

- (a) that without the transmission, the images or sounds would not be perceivable;
- (b) irrespective of whether the persons can receive the images or sounds at the same place and time, or at different places or times individually chosen by them;

“computer” means an electronic or similar device having information-processing capabilities;

“computer programmes” means a set of instructions expressed in words, codes, schemes or in any other form, which is capable, when incorporated in a medium that a computer can read, of causing a computer to perform or achieve a particular task or result;

“copy” means a reproduction of a work in a written form, or the form of a recording or film, or in any manner or form, but an object shall not be taken to be a copy of an architectural work unless the object is a building or a model;

“copyright” means an economic right or moral right protected under this Act;

“court” means the Commercial and Admiralty Division of the High Court;

“directive work” means a work resulting from adaptation, translation or other transformation of an original work in so far as it constitutes an independent creation;

“distribution” for the purposes of section 14, means any operation by which programme-carrying signals are transmitted to the general public or any section of it;

“distributor” for the purposes of section 14 means any person who decides that the distribution should take place;

“exclusive licence” means a licence signed by or on behalf of the owner of copyright, authorizing the licensee, to the exclusion of all other persons (including the person granting the licence), to exercise any right which would otherwise be exercised exclusively by the copyright owner;

“expression of folklore” means a group-oriented and tradition-based creation of groups or individuals reflecting the expectation of the community as an adequate expression of its cultural and social identity, its standards and values as transmitted orally, by imitation or by other means, including-

- (a) folktale, folk poetry and folk riddle;

- (b) folk song and instrumental folk music;
- (c) folk dance and folk play; and
- (d) production of folk art, in particular, drawing, painting, carving, sculpture, pottery, terracotta, mosaic, woodwork, metalware, jewelry, handicraft, costume and indigenous textile;

“fixation” means the embodiment of sounds, images or both of the representations from which the sounds, images or images and sounds can be perceived, reproduced or communicated through a device;

“folklore” means the literary, artistic and scientific work belonging to the cultural heritage of Sierra Leone which are created, preserved and developed by ethnic communities of Sierra Leone or by unidentified Sierra Leonean authors;

“infringement” means an act that violates a right protected under this Act;

“licence” means a lawfully granted licence permitting the doing of an act controlled by this Act;

“literary work” includes, irrespective of literacy quality, any of the following :-

- (a) novels, stories or poetical works;
- (b) plays, stage directions, film scenarios or broadcasting scripts;
- (c) textbooks, treaties, histories, biographies, essays or articles;
- (d) choreographic works;

- (e) encyclopedias, dictionaries, directories, time tables, anthologies, databases or compilation of data or other material, whether in machine readable form, which by reason of the selection or arrangement of contents constitutes intellectual creations;
- (f) letters, reports or memoranda;
- (g) law reports, excluding court decisions;
- (h) lectures, addresses or sermons; and
- (i) computer programmes whatever may be the mode or form of expression;

“Minister” means the Minister responsible for trade;

“moral right” means any of the rights mentioned in section 11;

“musical work” includes any musical work, irrespective of its musical quality and words composed for musical accompaniment;

“owner”, in relation to copyright, means the person to whom the copyright in a work belongs and includes the heir of an author or an assignee in whole or in part of a copyright and where –

- (a) the economic right is vested in the author;
- (b) the economic right is originally vested in an individual, other than the author or in a legal entity, it is that person or entity; or
- (c) the ownership of the economic right has been transferred to an individual or legal entity, it is that person or entity;

“performance” means the presentation of a work by action, including dancing, playing, reciting, singing, delivering, declaiming or projecting to listeners or spectators;

“performer” means an actor, a declaimer, dancer, musician, singer or other person who performs a literary or artistic work and includes the conductor or director of a performance of the artistic or literary work;

“photographic work” means-

- (a) a recording of light or other radiation on a medium on which an image is produced or from which an image may be produced, irrespective of the technique (chemical, electronic or other) by which the recording is made; or
- (b) a still picture extracted from an audiovisual work which is considered to be part of the work concerned;

“producer” in relation to an audiovisual work or a sound recording, means the individual or legal entity that undertakes the initiative and responsibility for the making of the audiovisual work or sound recording;

“programme-carrying signals” means electronically generated carriers transmitting live or recorded material consisting of images, sounds or both, in their original form or any form recognizable derived from the original, in extra-terrestrial space;

“public display” means-

- (a) the showing of the original or a copy of any work-
 - (i) directly ;

(ii) by means of a film, slide, television image or otherwise on screen; or

(ii) by means of any device or process; or

- (b) in the case of an audiovisual work, the showing of individual images non-sequentially, at a place or places where persons outside the normal circle of a family and its closest social acquaintances are or can be present, irrespective of whether they are or can be present at the same place and time or at different places or times, and where the work can be displayed without communication to the public;

“public lending” means the transfer of the possession of the original or a copy or a work or sound recording for a limited period of time for non-profit making purposes, by an institution, the services of which are available to the public, including a library and an archive;

“public place” means a building, place or conveyance to which the public are, for the time being entitled or permitted to have access, either without any condition or on condition of making any payment, and includes theatres, hotels, cinemas, concert halls, dance halls, bars, clubs, sport grounds, holiday resorts, circuses, restaurants, commercial banking and industrial establishments;

“public performance” means, in the case of -

- (a) a work other than an audiovisual work, the recitation, playing, dancing, acting or otherwise performing the work, either directly or by means of any device or process;
- (b) an audiovisual work, the showing of images in sequence and the making of accompanying sounds audible; and

- (c) a sound recording, making the recorded sounds audible at a place or at places where—
- (i) persons outside the normal circle of the family and its closest acquaintances are or can be present, irrespective of whether they are or can be present at the same place and time, or at different places or times, and
 - (ii) where the performance is perceived without the need for broadcasting or communication to the public;

“published” means a work or a sound recording, tangible copies of which have been made available to the public in a reasonable quantity for sale, rental, public lending or for other transfer of the ownership or the possession of the copies, provided that it was available to the public, in the case of –

- (a) a work, with the consent of the author or other owner of the copyright; and
- (b) a sound recording with the consent of the producer of the sound recording or his successor in title;

“publisher” means –

- (a) a person who undertakes the publication of a work by the issue of copies to the public usually for sale; or
- (b) in the case of a sound recording or audiovisual work, the person who issues duplicates of the sound recording or audiovisual work;

“re-broadcast” means a simultaneous or subsequent broadcast by one broadcasting organisation of the broadcast of another broadcasting organisation;

“Registrar” means the Registrar of Intellectual Property;

“rental” means the transfer of the possession of the original or a copy of a work or sound recording for a limited period of time for profit-making purposes;

“reproduction” means the making of one or more copies of a work or sound recording in any manner or form, including a permanent or temporary storage of the work in electronic form;

“right management information” means any information—

- (a) which identifies the author, the work, the performer, the performance of the performer, the producer of the sound recording, the broadcaster, the broadcast, the owner or the owner of any right under this Act; or
- (b) about the terms and conditions of use of the work, performance, sound recording or broadcast, and any number or code that represents the information, when any of the items of information is attached to copy of a work, fixed performance, sound recording or appears in connection with the broadcasting, communication to the public or making available to the public of a work, fixed performance, sound recording or broadcast;

“sound recording” means a work that results from the fixation of series of musical, spoken or other sound, but does not include sounds accompanying a motion picture or other audiovisual work regardless of the nature of the material objects in which those sounds are embodied;

“systematic instructional activities” means the methodical presentation of information for educational purposes;

“technical device” includes audio or visual cassettes, compact discs, CD-Roms, VCRs, photocopying machines and any other object, equipment or device used or capable of being used to infringe copyright;

“work” means any of the works listed in sections 4 and 5 and includes translations, adaptations, new versions or arrangements of pre-existing works and anthologies or collection of works which, by reason of the selection and arrangement of their content, present an original character;

“work of applied art” means an artistic creation with useful functions or incorporated in a useful article, whether made by hand or produced on an industrial scale;

“work of joint authorship” means a work created by two or more authors in collaboration, in which the individual contributions are indistinguishable from each other.

Publication of works.

2. (1) A work is deemed to have been published if copies of it have been made available in a manner sufficient to render the work accessible to the public.

(2) Where in the first instance, a part only of a work is published, that part shall be treated for the purposes of this Act as a separate work.

(3) A publication in any country shall not be treated as being other than the first publication by reason only of an earlier publication elsewhere if the two publications took place within a period of not more than thirty days.

Application of Act.

3. This Act shall –

- (a) apply to works, performances, sound recording, and broadcasts existing before the date of the coming into operation of this Act, and after that provided that the terms of

protection had not expired under the former enactment or under the enactment of the country of origin of the works, performances, sound recording or broadcast that are to be protected under an international treaty to which Sierra Leone is a party; and

- (b) not affect any contract on works, performances, sound recordings and broadcasts concluded before the coming into operation of this Act.

PART II – COPYRIGHT

4. (1) An author, co-author or joint author of any of the following works is entitled to the copyright and protection afforded to that work under this Act: – Works eligible for copyright protection.

- (a) literary work;
- (b) artistic work;
- (c) musical work;
- (d) sound recordings;
- (e) audiovisual work;
- (f) choreographic work;
- (g) derivative work;
- (h) programme-carrying signals; and
- (i) computer software and programmes.

(2) Notwithstanding subsection (1), a work is not eligible for copyright unless –

- (a) it is original in character;

- (b) it has been affixed in any definite medium of expression now known or later to be developed with the result that the work can either directly or with the aid of any machine or device be perceived, reproduced or otherwise communicated; and
- (c) it is –
 - (i) created by a citizen of Sierra Leone or a person who is ordinarily resident in Sierra Leone or by a body corporate;
 - (ii) first published in Sierra Leone; and in the case of a work first published outside Sierra Leone is subsequently published in Sierra Leone within thirty days of its publication outside Sierra Leone; or
 - (iii) a work in respect of which Sierra Leone has an obligation under an international treaty to grant protection.

(3) The eligibility of a work for copyright is not affected by its artistic quality, the purpose of the author in creating it or by the manner or form of its expression.

(4) For the purposes of this section, a work is original if it is the product of the independent effort of the author.

Copyright by reference to international agreements.

5. (1) A work is also protected if –

- (a) on the date of its first publication at least one of the authors is –
 - (i) a citizen of or domiciled in; or

- (ii) a body corporate established by or under the laws of,

a country that is a party to an obligation in a treaty or other international agreement to which Sierra Leone is a party; or

- (b) the work is first published –
 - (i) in a country which is a party to an obligation in a treaty or other international agreement to which Sierra Leone is party;
 - (ii) by the United Nations or any of its Specialised Agencies;
 - (iii) by the African Union;
 - (iv) by the Economic Community of West African States.

(2) Where the question arises as to whether a country is a party to an obligation in a treaty or other international agreement to which Sierra Leone is a party, a certificate from the Registrar to that effect shall be conclusive evidence of that fact.

6. (1) The following derivative works are also protected by copyright:– Derivative works eligible for copyright.

- (a) any translation, adaptation, arrangement or other transformation or modification of a work; and
- (b) collection of works, collection of mere data whether in machine-readable or other form, and collection of expressions of folklore if the collection is original by reason of the selection or arrangement of their contents.

(2) The protection of a work referred to in subsection (1) is without prejudice to any protection of a pre-existing expression of folklore incorporated in or utilized for the making of the work.

Ideas,
concepts
excluded from
copyright.

7. Notwithstanding sections 4 and 5, no protection shall extend under this Act to –

- (a) any idea, procedure, system, method of operation, concept, principle, discovery or mere data, even if expressed, described, explained, illustrated or embodied in a work; or
- (b) any official text of a legislative, administrative or legal nature or any of its official translations.

Publication of
works vesting
copyright in
Government
etc.

8. The copyright of a work shall vest in –

- (a) the President on behalf of and in trust for the people of Sierra Leone; or
- (b) an international body,

if the work is made by or under the direction or control of the President or the State on behalf of and in trust for the people of Sierra Leone or a specified international body.

Expression of
folklore
protected.

9. (1) An expression of folklore is protected by copyright under this Act against –

- (a) reproduction;
- (b) communication to the public by performance, broadcasting, distribution by cable or other means; and
- (c) adaptation, translation and other transformation, when the expression is made either for commercial purposes or outside a traditional or customary context.

(2) The protection conferred in subsection (1) does not include the right to control –

- (a) the doing of any of the acts by way of fair dealing for private and domestic use, subject to the condition that, if the use is public, it shall be accompanied by an acknowledgement of the title of the work and its source;
- (b) the utilisation for purposes of education, utilisation by way of illustration in an original work of an author, provided that the extent of such utilisation is compatible with fair practice;
- (c) the borrowing of expression of folklore for creating an original work of an author, provided that the extent of the utilisation is compatible with fair practice; or
- (d) the incidental utilisation of expressions of folklore

(3) The source of an identifiable expression of folklore shall be indicated in all printed publications, and in connection with any communications to the public, in an appropriate manner, and in conformity with fair practice, by mentioning the community or place from where the expression utilized was derived.

(4) The right to authorise an act referred to in subsection (1) shall vest in the Minister on behalf of and in trust for the people of Sierra Leone.

10. (1) The author of any protected copyright work has the exclusive economic right in respect of the work to do or authorise the doing of any of the following:–

- (a) the reproduction of the work;
- (c) the translation, adaptation, arrangement or any other transformation of the work;

Economic
rights of
authors.

- (d) the communication to the public by performance, broadcasting or any other means;
- (e) the distribution to the public by way of sale, rental, public lending or otherwise of the original or a copy of the work that has not already been subject to sale or other transfer of ownership authorised by the owner of copyright;
- (f) rental or public lending of the original or a copy of an audiovisual work, a work embodied in sound recording, a computer programme, a database or a musical work in the form of notation, irrespective of the ownership of the original or copy concerned;
- (g) importation of copies of the work;
- (h) public display of the original or a copy of the work;
- (i) public performance of the work;
- (j) broadcasting of the work; and
- (k) any other communication to the public of the work.

(2) The right of rental or lending under paragraph (e) of subsection (1) does not apply to renting or lending of a computer programme where the programme itself is not the essential object of the rental or lending.

Moral rights of authors.

11. (1) In addition to the economic rights referred to in section 10, the author of a protected copyright work has the sole moral right—

- (a) to claim authorship of his work and in particular to demand that his name or pseudonym be mentioned when any of the acts referred to in section 10 are done in relation to the work;

- (b) not to have his name or pseudonym indicated on the copies and in connection with any public use of his work, as far as practicable;
- (c) to object and seek relief in connection with any distortion, mutilation or other modification of the work where that act would be or is prejudicial to his reputation or where the work is discredited by the act; and
- (d) to alter the work at any time.

(2) None of the rights mentioned in subsection (1) shall be transmissible during the life of the author: but the right to exercise any of the rights shall be transmissible by testamentary disposition or by operation of law following the death of the author.

(3) The author may waive any of the moral rights mentioned in subsection (1), if—

- (a) the waiver is in writing and clearly specifies the right waived and the circumstances in which the waiver applies; and
- (b) a waiver of the right under paragraph (c) of subsection (1) specifies the nature and extent of the modification or other action in respect of which the right is waived.

(4) Following the death of the author, the individual or legal entity on whom or which the moral rights have devolved may waive those rights.

12. The copyright of a work shall vest in an employer or a person who commissioned the work if the employed author created the work —

- (a) in the course of his employment by the employer or person;
- (b) under a contract of service; or

Employed authors.

- (c) on commission by the person who commissioned the work, in the absence of any enactment or contract to the contrary.

Public benefit works.

13. (1) The rights referred to in sections 10 and 11 shall not vest in any person in respect of the following works:—

- (a) an enactment;
- (b) a decision made by a court;
- (c) a report made by a commission of enquiry appointed by the Government or an agency of the Government; and
- (d) news, namely a report of fresh events or current information made by the media, whether published in written form, by broadcast, or communicated to the public by any other means except where news is disseminated by the private media.

(2) The President is the trustee for the public of the works specified in subsection (1) except where they relate to the private media.

Programme-carrying signals.

14. Copyright in programme-carrying signals is the exclusive right to prevent the distribution in Sierra Leone or from Sierra Leone of any signals by any distributor for whom those signals were not intended by their author; but it shall not be an infringement of the right of the author where the use of the signal involves –

- (a) the reproduction in any material form, the communication to the public and the broadcasting of the whole signal or a substantial part of it, either in its original form or in any form recognizably derived from the original by way of fair dealing for the purpose of scientific research, private use, criticism or review or the reporting of current events;

- (b) the broadcasting or the signal if the broadcast is intended to be used for purposes of systematic instructional activities;
- (c) the reproduction of a broadcast and the use of the reproduction in any educational institution or for the systematic instructional activities in any educational institution; or
- (d) its use for the purpose of a judicial proceeding or for any report of the proceeding.

15. (1) Subject to subsection (2), the original owner of the economic rights is the author who created the work.

Original ownership of economic rights.

(2) In the case of –

- (a) a work of joint authorship, the co-authors shall be the original owners of the economic rights but if a work of joint authorship consists of parts that can be used separately and the author of each part can be identified, the author or each part shall be the original owner of the economic rights in the part that he has created;
- (b) a collective work, the natural person or legal entity at whose initiative and under whose direction the work has been created shall be the original owner of the economic rights;
- (c) a work created by an author employed by an individual or a legal entity in the course of his employment, the employer shall, unless provided otherwise in a contract, be the original owner of the economic rights; and
- (d) an audiovisual work, the producer shall, unless provided otherwise in a contract, be the original owner of the economic rights.

(3) The co-authors of audiovisual work and the author of a pre-existing work included in or adapted for the making of the audiovisual work shall maintain their economic rights in their contributions or pre-existing works, respectively, to the extent that those contributions or pre-existing works can be the subject of acts covered by their economic rights separately from the audiovisual work.

Transfer of rights.

16. (1) The owner of copyright may transfer the economic rights to a third party either in whole or in part but the transfer whether in whole or in part shall not include the moral rights.

(2) A contract that requires the transfer of the rights referred to in section 10 shall be limited in scope to the use provided in the contract.

(3) Copyright may be transferred by assignment, licence, testamentary disposition or operation of law.

(4) An assignment of copyright shall be in writing and signed by the owner of the copyright or by the person authorised by the owner for the purpose.

(5) A licence to do an act that falls within copyright may be oral, written or inferred from conduct.

(6) In the case of joint authorship of a work, an assignment or a licence for the work shall be subject to the authorization of the joint authors.

(7) Where a work is of joint authorship and one of the joint authors withholds his consent to an assignment or the granting of a licence, the matter shall be referred to the Registrar to determine whether or not consent should be granted in respect of the assignment or licence and upon what conditions.

Presumption of authorship and of representation of author.

17. (1) An individual whose name is indicated as the author on a work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the author of the work notwithstanding that the name is a pseudonym, if the pseudonym leaves no doubt as to the identity of the author.

(2) In the case of an anonymous work or pseudonymous work whose author is not identified, the publisher whose name appears on the work shall, in the absence of proof to the contrary, be presumed to represent the author and, in that capacity, shall be entitled to exercise and enforce the economic rights and moral rights of the author; but this presumption shall cease to apply when the author reveals his identity.

18. (1) The owner of a copyright has the right to –

Right to claim authorship.

(a) claim authorship of his work, in particular that his authorship be indicated in connection with any of the acts referred to in section 10 except when the work is included incidentally or accidentally when reporting current events by means of broadcasting;

(b) object and seek relief in connection with any distortion, mutilation or other modification of, and any other derogatory action in relation to his work, where the action would be or is prejudicial to his honour or reputation.

(2) The rights referred to in subsection (1) are perpetual, inalienable and imprescriptible.

(3) For the purpose of this section “author” includes his heirs and successors-in-title.

19. (1) Notwithstanding an assignment or a sale of the original work, the author of a graphic work, three-dimensional work or manuscript has an inalienable right to share in the proceeds of a sale of that work or manuscript by public auction or through a dealer, whatever the method used by the latter to carry out the operation.

Right to share proceeds of sale.

(2) The right conferred by this section shall apply to originals of the work.

(3) The conditions for the exercise of the right conferred by this section shall be determined by regulations.

(4) Subsections (1) to (3) shall not apply to architectural work or applied art.

(5) In this section, “author” includes heirs and successors-in-title.

Duty of printer and others to keep register.

20. (1) Publishers, printers, producers, manufacturers of works in which copyright subsists shall keep a register of all works produced by them showing the following:—

- (a) the name of the author;
- (b) the title;
- (c) the year of production; and
- (d) the quantity of work produced.

(2) The Registrar may require the register kept under subsection (1) to be produced for inspection, examination or copying, if necessary.

PART III—DURATION OF COPYRIGHT

Duration of copyright, generally.

21. (1) Subject to subsection (2), the economic right and moral right of an author shall be protected during the life of the author and for fifty years after his death.

(2) The moral right of an author exist in perpetuity and these rights shall be enforceable by the author during the lifetime of the author, and after the author’s death, by the author’s successors whether or not the economic rights vested in the author under this Act are still vested in the author or the successor-in-title of the author.

(3) The economic right or moral right is protected in the case of—

- (a) a work of joint authorship, during the life of the last surviving author and for fifty years after his death;
- (b) a collective work, other than a work of applied art, and in the case of an audiovisual work, for fifty years from the date on which the work was either made, first made available to the public or first published, whichever date is the latest;

(c) a work published anonymously or under a pseudonym, for fifty years from the date on which the work was made, first made available to the public or first published, whichever date is the latest; but where the author’s identity is revealed or is no longer in doubt before the expiration of the that period, subsection (1) shall apply, as the case may be;

(d) a work of applied art, for twenty-five years from the making of the work.

(4) Every period provided for under this Part shall run to the end of the calendar year in which it would otherwise expire.

22. Where the copyright in a work is owned by a public corporation or other body corporate the term of protection shall be fifty years from the date on which the work was made public.

Duration of copyright in bodies corporate.

23. In the case of an audiovisual work, sound recording or broadcast, the rights of the author referred to in sections 10 and 11 are protected until the expiration of fifty years from the date of the making of the work, or where the work is made available to the public during that period with the consent of the author until the expiration of fifty years from the date of its communication to the public.

Duration of copyright in audiovisual works.

24. In the case of programme-carrying signals, the rights of the author referred to in sections 10 and 11 are protected until the expiration of fifty years from the date of the making of the signal.

Duration of copyright in programme-carrying signals.

25. In the case of a photographic work, the rights of the author referred to in section 10 are protected until the expiration of fifty years from the date of the making of the work.

Duration of copyright in photographic work.

26. The rights vested in the President on behalf of and in trust for the people of Sierra Leone in respect of folklore under section 9 exist in perpetuity.

Duration of copyright in folklore.

PART IV – PERMITTED USE OF COPYRIGHT, TRANSFER
OF COPYRIGHT AND EPHEMERAL RECORDING

Private
reproduction
for personal
purposes.

27. (1) Notwithstanding paragraph (a) of subsection (1) of section 10 and subject to subsection (2), the private reproduction of a published work in a single copy is permitted without the authorization of the author or other owner of copyright, where the reproduction is made by an individual exclusively for his own personal purposes.

(2) The permission under subsection (1) does not extend to reproduction –

- (a) of a work of architecture in the form of building or any other construction;
- (b) in the form of reprography of the whole or of a substantial part of a book or of a musical work in the form of notation;
- (c) of the whole or of a substantial part of database in digital form;
- (d) of a computer programme, except as provided in section 28; and
- (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright

Temporary
reproduction.

28. Notwithstanding paragraph (a) of subsection (1) of section 10, the temporary reproduction of a work shall be permitted if the reproduction –

- (a) is in the process of a digital transmission of the work or making a digitally stored work perceptible;

- (b) is caused by a person or entity that, by way of authorization by the owner of copyright by operation of law, is entitled to make the transmission or the digitally stored work perceptible; and
- (c) is an accessory to the transmission or the making perceptible, that occurs during the normal operation of the equipment used and entails the automatic deletion of the copy without enabling the retrieval of the work for any other purpose than those referred to in paragraphs (a) and (b).

29. (1) Notwithstanding paragraph (a) of subsection (1) of section 10 the reproduction, in the form of quotation, of a short part of a published work shall be permitted without authorization of the author or other owner of copyright, if the reproduction is compatible with fair practice and does not exceed the extent justified by the purpose. Reproduction in the form of quotation.

(2) An indication of the source and the name of the author or other owner of copyright, if his name appears in the work from which the quotation is taken, shall accompany the quotation.

30. (1) Notwithstanding paragraph (a) of subsection (1) of section 10, the following acts are permitted without authorization of the author or other owner of copyright – Reproducing for teaching.

- (a) the reproduction of a short part of a published work for teaching purposes by way of illustration, in writing or sound or visual recording, if the reproduction is compatible with fair practice and does not exceed the extent justified by the purpose;
- (b) the reprographic reproduction, for face-to-face teaching in educational institutions whose activities do not serve direct or indirect commercial gain, of published articles, other short works or short extracts of works, to the extent justified by the purpose, if-

- (i) the act of reproduction is an isolated one occurring, if repeated, on separate and unrelated occasions; and
- (ii) there is no collective licence offered by a Collecting Society of which the educational institution is or should be aware, under which the reproduction can be made.

(2) The source of the work reproduced and the name of the author shall be indicated as far as practicable on all copies made under subsection (1).

Reprographic reproduction by libraries and archives.

31. Notwithstanding paragraph (a) of subsection (1) of section 10, a library or an archive whose activities do not serve direct or indirect gain may, without the authorization of the author or other owner of copyright, make a single copy of the work by reprographic reproduction where –

- (a) the work reproduced is a published article, other short work or short extract of a work, and where the purpose of the reproduction is to satisfy the request of an individual if –
 - (i) the library or archive is satisfied that the copy will be used solely for the purposes of study, scholarship or private research;
 - (ii) the act of reproduction is an isolated case occurring if repeated, on separate and unrelated occasions; and
 - (iii) there is no collective licence offered by a Collecting Society of which the library or archive is or should be aware, under which the copy can be made; or
- (b) the copy is made in order to preserve and, if necessary, replace a copy which has been lost, destroyed or rendered unusable in the permanent collection of another similar library or archive, if–

- (i) it is impossible to obtain the copy under reasonable conditions; and
- (ii) the act of reprographic reproduction is an isolated case occurring, if repeated, on separate and unrelated occasions.

32. Notwithstanding subparagraphs (i) and (j) of paragraph (a) of subsection (1) of section 10, the following acts shall be permitted in respect of a work, without the authorization of the author or other owner of copyright, subject to the obligation to indicate the source and the name of the author or other owner as far as practicable :–

Reproduction, broadcasting and other communication to the public.

- (a) the reproduction in a newspaper or periodical, the broadcast or other communication to the public, of an article published in a newspaper or periodical on current economic, political or religious topics or a broadcast work of the same character;
- (b) for the purpose of reporting current events, the reproduction, broadcast or other communication to the public of short excerpts of a work seen or heard in the course of the events, to the extent justified by the purpose; and
- (c) the reproduction in a newspaper or periodical, the broadcast or other communication to the public of a political speech, a lecture, an address, a sermon or any other work of a similar nature delivered in public or a speech delivered during legal proceedings, to the extent justified by the purpose of providing current information.

33. Notwithstanding subsection (1) of section 10, the publication of the portrait of the author or other owner of copyright is permitted without the author's authorization if publication is related to scientific, educational or cultural purposes in general or to facts or events of public interest that have occurred in public.

Publication of portrait in events of public interest.

Reproduction and adoption of computer programmes.

34. (1) Notwithstanding paragraphs (a) and (c) of subsection (1) of section 10, the reproduction, in a single copy, or the adaptation of a computer programme by the lawful owner of a copy of that computer programme is permitted without the authorization of the author or other owner of copyright, if the copy or adaptation is necessary for –

- (a) use of the computer programme with a computer for the purpose and extent for which the computer programme has been obtained;
- (b) for archival purposes and for the replacement of the lawfully owned copy of the computer programme in the event that the copy of the computer programme is lost, destroyed or rendered unusable.

(2) No copy or adaptation of a computer programme shall be used for any purpose other than those specified in subsection (1), and the copy or adaptation shall be destroyed if the continued possession of the copy of the computer programme becomes unlawful.

Importation for personal purposes.

35. Notwithstanding paragraph (a) of subsection (1) of section 10, the importation of a copy of a work by an individual for his own personal purposes is permitted without the authorization of the author or other owner of copyright.

Display of works.

36. Notwithstanding paragraph (a) of subsection (1) of section 10, the public display of the original or copy of a work is permitted without the authorization of the author or other owner of copyright if–

- (a) the display is made other than by means of a film, slide, television image or otherwise on screen or by means of any other device or process; and
- (b) the work has been published or the original or the copy displayed has been sold, given away or otherwise transferred to another person by the author or his successor-in-title.

37. (1) Where a work is broadcast, the broadcaster may use his own facilities to make a recording of the broadcast and may produce copies of the recording for his own use. Ephemeral recordings.

(2) Subject to subsection (3), the copies of the recording shall be destroyed by the broadcaster within six months after the date on which the recording was made.

(3) An authorised recording under subsection (1) of exceptional documentary character may be preserved for presentation to the national archives.

(4) The preservation of an authorised recording for presentation to the national archives does not affect the rights of the author in the work that was broadcast.

(5) Whether a recording of a broadcast is of exceptional documentary character is a question of fact to be determined by the broadcaster after taking into consideration the circumstances of the case and in particular the need for the enhancement of the historical and cultural aspects of life in the country.

PART V – PROTECTION OF PERFORMERS, BROADCASTING HOUSES, SOUND RECORDING PRODUCERS AND AUDIOVISUAL PRODUCERS

38. (1) A performer shall have an economic and moral right to a live aural performance and to a performance fixed in a sound recording and has the exclusive right to authorise – Rights of performers.

- (a) the broadcast or other communication to the public of his performance, except where the broadcast or the other communication –
 - (i) is made from a fixation of the performance, other than a fixation made under the terms of section 42 or otherwise made without the authorization of the performer; or
 - (ii) is a re-broadcast made or authorised by the organisation initially broadcasting the performance;

- (b) the fixation of his unfixed performance;
 - (c) the direct or indirect reproduction of a fixation of his performance, in any manner or form;
 - (d) the distribution to the public by sale or other transfer of ownership, of a fixation of his performance, or copies of it, that have not already been subject to a distribution authorised by the performer;
 - (e) rental to the public or public lending of a fixation or copies of the fixation of his performance irrespective of the ownership of the copy rented or lent;
 - (f) the making available to the public of his fixed performance, by wire or wireless means, in such a way that members of the public may access them from a place or at a time individually chosen by them.
- (2) No person shall –
- (a) broadcast or communicate the performance of a performer directly or indirectly to the public except –
 - (i) where the performance is made for a previously authorised fixation; or
 - (ii) where the transmission is one that has been authorised by the broadcasting organisation that transmits the first performance;
 - (b) arrange the fixation of a performance not previously fixed on a physical medium;
 - (c) provide the first public distribution of the original or a copy of a fixation of a performance;

- (d) provide or obtain a rental of the original or a copy of the performance for the purpose of direct or indirect commercial advantage irrespective of the ownership of the original or copy rented; or
 - (e) make available to the public a fixed performance by wire or wireless means, in a way that members of the public may access it from a place and at a time individually chosen by them, without the authorisation of the performer.
- (3) No person shall reproduce a fixation of a performance where –
- (a) the performance is initially fixed without the authorization of the performer;
 - (b) the reproduction is made for a purpose other than what the performer has given authorization for; or
 - (c) the performance is initially fixed in accordance with this Act but the reproduction is made for purposes other than those specified.
- (4) Where two or more performers take part in the same performance as a group, authorization may be given by the legal representative of the group or by the leader of the group.
- (5) Once the performer has authorised the incorporation of his performance in an audiovisual fixation, subsection (1) shall have no further application.
- (6) The performer shall, independently of his economic rights and even after the transfer of those rights as regards his live aural performances and performances fixed in sound recording, have the right to –

- (a) claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance; and
- (b) object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation.

(7) Subsections (2) and (3) of section 11 apply *mutatis mutandis* to the rights granted under subsection (5)

Performers' rights to contract.

39. No provision in this Act shall preclude the right of a performer to enter into a contract with any person on the terms and conditions that he thinks fit for the use of his performance by another person.

Authorisation relating to broadcast.

40. In the absence of any enactment or contract to the contrary, section 38 shall not imply a consent to –

- (a) licence other broadcasters to transmit the performance;
- (b) make a fixation of the performance;
- (c) reproduce the fixation if the authorization granted is to broadcast and make a fixation of the performance; or
- (d) broadcasting the performance from a previous fixation or from the reproduction of the fixation where initial permission was given solely to enable the broadcasting of the performance.

Broadcasting organisations.

41. A broadcasting organisation has the exclusive right to authorise or prohibit –

- (a) the re-broadcasting of its broadcast;
- (b) the fixation of its broadcast; or

- (c) the reproduction of a fixation of its broadcast where-
 - (i) the fixation used to make the reproduction is made without authorization; or
 - (ii) the broadcast is initially fixed in accordance with this Act, but the reproduction is made for purposes other than those specified.

42. Sections 38, 40, 41 and 43 shall not apply where the acts referred to are concerned with –

Limitation on broadcasting rights.

- (a) private use;
- (b) the reporting of current events, but only short excerpts of a performance, sound recording, audiovisual work or broadcast may be used;
- (c) teaching or scientific research; and
- (d) quotations in the form of short excerpts of a performance, sound recording, audiovisual work or broadcast, which are compatible with fair practice and are justified by the informative purpose of those quotations.

43. (1) The producer of a sound recording or audiovisual work may authorise or prohibit –

Rights of sound recording producers and producers of audiovisual works.

- (a) the direct or indirect reproduction of that sound recording or audio visual work;
- (b) importation of copies of the sound recording;
- (c) the distribution to the public by sale or other transfer of ownership of the original copies of the sound recording that has not already been authorized for distribution by the producer;

- (d) rental or lending to the public, a copy of the sound recording, irrespective of the ownership of the copy rented or lent;
- (e) the making available to the public of the sound recording, by wireless means, in such a way that members of the public may access it from a place or at a time individually chosen by them.

(2) The right under subsection (1) shall be protected from the date of publication of the sound recording until the end of the fiftieth year following the year of publication or if the sound recording has not been published, from the fixation of the sound recording until the end of the fiftieth year following the year of fixation.

(3) The producer of a sound recording or audiovisual work may make available to the public a sound recording or audiovisual work by wire or wireless means in such a way that members of the public may access it from a place and at a time individually chosen by them.

(4) A copy of a sound recording or audiovisual work is unlawful if with or without imitating the outward characteristic of the original work it incorporates all or part of the producer's sound recording or audio visual-work without his authorization.

Equitable remuneration for producers and performers.

44. (1) The user of a sound recording or audiovisual work shall pay the producer and the performers reasonable remuneration for –

- (a) a sound recording or audiovisual work published for commercial purposes;
- (b) a production of a sound recording or audiovisual work, if the sound recording or audiovisual work is used for broadcasting or in any other form of communication to the public; and
- (c) the public performance of a sound recording.

(2) The right to an equitable remuneration under this section shall subsist from the date of publication of the sound recording until the end of the fiftieth year following the year of publication or, if the sound recording has not been published, from the date of fixation of the sound recording until the end of the fiftieth year following the year of fixation.

(3) For the purposes of this section, a sound recording that has been made available to the public by wire or wireless means in such a way that members of the public may access it from a place and at a time individually chosen by them shall be considered as if it has been published for commercial purposes.

45. (1) The producer of a sound recording or audio visual work shall state on the label of the sound recording or audiovisual work or on its container – Obligation of producers.

- (a) the name of the author and the names of the main performers;
- (b) the title of the work;
- (c) the year the original matrix was cut;
- (d) the individual or corporate name or the distinguishing mark of the producer; and
- (e) that the rights accruing to the producer under this Act are reserved.

(2) Choirs, orchestras and composers shall be referred to by their proper names or by the name of the leader for the purpose of paragraph (a) of subsection (1).

46. (1) A notice shall be printed on copies of sound recording or audiovisual work made for commercial purposes which shall include – Notice of protection or rights of producers.

- (a) the symbols © and (*p*); and
- (b) the year of first publication of the sound recording or audiovisual work.

(2) The notice shall be placed in such a manner as to give reasonable notice of claim of protection of the rights of the producer.

(3) If the notice on the copies of the sound recording, audiovisual work or their containers does not identify the producer or his licence by his name, description or trade mark, it shall indicate the name of the person who owns the rights of the producer.

(4) Non-compliance with this section by a producer does not deprive the producer of protection under this Act, if made in accordance with its provisions.

(5) A person may use fixations or reproductions made in good faith before the coming into operation of this Act, if made in accordance with its provisions.

PART VI – ROYALTIES, PUBLIC DOMAIN AND REGISTRATION

Royalties.

47. (1) Authors, performers and the producers of sound recordings and other copyright works are entitled to royalties under this Act when sound recording discs or other devices are used in a public performance or in a public place or where they are used in broadcasting or audiovisual work.

(2) The owners of mechanical rights are entitled to collect royalties for the live public performance of their copyright work or for the recorded public performance of their copyright work at a public place.

Public domain.

48. (1) The following works belong to the public domain: –

- (a) works with expired terms of protection;
- (b) works by authors who have renounced their rights; and
- (c) foreign works that do not enjoy protection in Sierra Leone.

(2) For the purposes of paragraph (b) of subsection (1), renunciation by an author or his successor-in-title of his rights provided under sections 10 and 11 shall be in writing and made public, but the renunciation shall not conflict with any previous contractual obligation relating to the work.

(3) For the purposes of this section, “public domain” means copyright works which do not enjoy protection because of the expiration of the term of protection or in the case of foreign works, those which lack international instruments to ensure protection.

(4) Subject to the payment of a fee to be prescribed by the Registrar a work that has fallen into the public domain may be used without any restriction.

(5) Any sums of money accruing from the payment of fees under subsection (4) shall be paid into a bank account opened for the purposes by the Registrar with the approval of the Minister responsible for finance, for the promotion of institutions which operate for the advancement of authors, performers, producers of sound recording, translators and the arts in general.

(6) The accounts shall be managed by the Registrar.

49. (1) The Registrar shall open and maintain registers in which shall be registered works, productions and associations of authors. Registration of works.

(2) The purposes of registration are –

- (a) to maintain a record of works; and
- (b) to publicize the rights of the owners.

(3) The publisher of a work in Sierra Leone may submit the work for registration by the Registrar within three months after its publication and two copies of the best edition shall be deposited at the Registry for that purpose.

PART VII – ADMINISTRATION

50. The Registrar shall be responsible for the administration of this Act. Registrar to administer this Act.

51. Subject to this Act, the Registrar shall have the responsibility - Functions of Registrar.

- (a) for all matters affecting copyright in Sierra Leone;
- (b) for implementing copyright laws and for copyright administration;
- (c) to monitor and supervise Sierra Leone’s position in relation to international conventions and advise Government accordingly;
- (d) to administer copyright of which the State is the owner;
- (e) to enlighten and inform the public on matters relating to copyright;
- (f) to maintain an effective data bank on authors and other owners of copyright and their works; and

- (g) to undertake other tasks relating to copyright as the enactment establishing it or the Minister may assign to him.

Power of entry of Registrar.

52. (1) The Registrar shall, for the purposes of his functions under this Act, have power to –

- (a) enter, inspect and examine, at any reasonable time, any building or premises which he suspects is being used for an activity which infringes copyright under this Act;
- (b) arrest a person who he reasonably believes has committed an offence under this Act;
- (c) carry out such examination and inquiry as may be necessary to ascertain compliance with this Act;
- (d) require a person found in the building or premises to give such information as he may have relating to a purpose specified in this Act;
- (e) carry out such examination, test or analysis within the building or premises as is required to give effect to any provision of this Act;
- (f) take instant photographs where any examination, test or analysis under paragraph (e) is carried out in the building or premises.

(2) A person who obstructs the Registrar in the performance of his duties commits an offence and is liable on conviction to a fine not exceeding Le40,000,000.00 or to imprisonment for a term not exceeding two years or to both the fine and imprisonment.

Anti-piracy devices.

53. (1) The Registrar may, with the approval of the Minister, prescribe any design, label, mark, impression or any other anti-piracy device for use on, in or in connection with any work which is protected under this Act.

(2) A person who –

- (a) sells, rents, hires, or
- (b) offers for sale, rent or hire,

a work in contravention of a prescription made under subsection (1) commits an offence and is liable on conviction to a fine not exceeding Le60,000,000.00 or to imprisonment for a term not exceeding three years or to both the fine and imprisonment.

(3) A person who, without the permission of the Registrar –

- (a) imports into or exports out of Sierra Leone; or
- (b) has in his possession,

an anti-piracy device prescribed under subsection (1) or any machine, instrument or other thing intended for use in the production of an anti-piracy device, commits an offence and is liable on conviction to a fine not exceeding Le60,000,000.00 or to imprisonment for a term not exceeding three years or to both the fine and imprisonment.

PART VIII – COLLECTING SOCIETY OF SIERRALEONE

54. (1) There is hereby established for authors and other owners of copyright in Sierra Leone, a society to be known as the Collecting Society of Sierra Leone.

Establishment of Collecting Society of Sierra Leone.

(2) The Society shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) For the purpose of performing its functions under this Act or any other enactment, the Society shall have the power to acquire and hold moveable and immoveable property, to dispose of the property and to enter into any contract or other transaction.

(4) The Society shall be non-profit making and shall -

- (a) promote, represent and protect the interests of its members;

- (b) except as otherwise provided in this Act, collect and distribute the royalties and other remuneration accruing to its members under this Act;
- (c) administer, exclusively within Sierra Leone, or outside Sierra Leone on the basis of reciprocity, all rights relating to public performances by its members;
- (d) act as an intermediary for the conclusion of contracts between its members and users of their works;
- (e) receive and record any information from its members in respect of their works and pay the royalties to the appropriate members, subject to deduction of agreed charges;
- (f) charge and collect on behalf of its members, royalties to the appropriate members, subject to deduction of agreed charges;
- (g) provide information and advice to its members on all matters relating to copyright and keep them informed of their rights;
- (h) foster harmony and understanding between its members and users of their works with a view to protecting the rights of its members;
- (i) promote activities for the dissemination of national cultural works in and outside Sierra Leone; and
- (j) carry out such other duties relating to copyright as may be assigned to it by the Board.

Board of
Society.

55. (1) There is hereby established, for the Society, a Board, which shall be responsible for the overall policy and general control of the Society.

- (2) The Board shall comprise –
 - (a) the President of the General Assembly of the Society, as the Chairman;
 - (b) two persons nominated by the Musicians Union of Sierra Leone;
 - (c) one music producer nominated by the Sierra Leone Association of Music Producers;
 - (d) one literary author nominated by the Sierra Leone Association of Writers;
 - (e) a representative of the Sierra Leone Association of Book Publishers;
 - (f) a representative of performing artistes;
 - (g) a representative of film producers;
 - (h) a representative of the Registrar; and
 - (i) the Executive Secretary of the Society.

56. (1) The Board shall meet for the discharge of its business at least once in every three months at such times and places as the Chairman shall determine. ^{Meetings of Board}

(2) The Chairman shall, at the written request of the Executive Secretary or not less than five members of the Board, convene a special meeting of the Board to transact any extraordinary business on a date specified in the request.

(3) A written notice of a special meeting of the Board shall–

- (a) be sent to each member not later than twenty-four hours before the meeting; and
- (b) specify the business for which the meeting is being convened.

(4) Where a request under subsection (2) is made by members other than the Executive Secretary, the request shall be transmitted to the Executive Secretary stating the business to be transacted, at least two working days before the date specified in the request.

(5) The quorum of the Board at any meeting shall be six.

(6) The Board shall take decisions by a simple majority of the votes of members present and, where there is an equality of votes, the person presiding shall have a casting vote.

(7) The Chairman shall preside at every meeting of the Board at which he is present, and in his absence, the members of the Board present shall appoint one of their number to preside at the meeting.

(8) The minutes of every meeting of the Board shall be signed by the Chairman or other member who presided after confirmation by the members.

(9) The Board may at any time co-opt any person to act as an adviser at any of its meetings, but no co-opted person shall be entitled to vote at any meeting of the Board.

Disclosure of interest.

57. (1) A member of the Board who has an interest in a company or an undertaking with which the Society proposes to enter into a contract shall –

- (a) disclose the nature of his interest to the Board; and
- (b) not participate in any deliberation of the Board in respect of that contract.

(2) The Board may remove from the Board a member who contravenes subsection (1).

Transaction of business without meeting.

58. A resolution is a valid resolution of the Board if –

- (a) it is signed or assented by a majority of the members; and
- (b) notice of the proposed resolution was given

to each member and to the Executive Secretary, notwithstanding that it was not passed at a meeting of the Board.

59. No action, suit, prosecution or proceedings shall be brought or instituted against a member of the Board personally in respect of anything done or omitted to be done in good faith in pursuance, execution or intended execution of this Act. Protection of members.

60. Members of the Board and persons co-opted by the Board shall be paid such allowances as the General Assembly may approve. Allowances of members.

61. (1) The Society shall have a General Assembly, which shall consist of all the registered members of the Society. General Assembly.

(2) The General Assembly shall –

- (a) determine the qualification for membership of the Society;
- (b) receive and approve the report on the yearly activities and the audited accounts of the Society; and
- (c) make recommendations relating to the objects of the Society to the Board and the Minister, as it thinks necessary.

(3) The General Assembly shall have a President and a Vice President, both of whom shall be elected at a meeting called by the General Assembly for that purpose.

(4) The President and Vice President shall hold office for a period of two years and may be re-elected for one further term only.

(5) The General Assembly shall meet for business at least once a year at such times and places as the President may determine.

(6) At a meeting of the General Assembly, the President shall preside but in his absence, the Vice President shall preside.

(7) The quorum for a meeting of the General Assembly

shall be one-third of all the registered members of the Society.

(8) The President or one-third of all the registered members of the General Assembly may convene an extraordinary meeting of the Society.

Executive Secretary of Collecting Society.

62. (1) The Society shall have an Executive Secretary who shall be appointed by the Board for his knowledge and experience in copyright matters and for his ability in administration.

(2) The Executive Secretary shall –

- (a) be the chief executive officer of the Society;
- (b) be responsible for the execution and implementation of the policies of the Board and the transaction of the day-to-day business of the Society; and
- (c) exercise supervision and control over the other employees of the Society.

(3) The Board may delegate to the Executive Secretary such of its functions as are necessary to enable him to transact efficiently the day-to-day business of the Society and for that purpose, the Board may, from time to time, issue written instructions.

(4) If the office of Executive Secretary is vacant or the Executive Secretary is for any reason unable to attend a meeting of the Board, the person for the time being carrying out the duties of the Executive Secretary shall attend the meeting and shall participate in its deliberations.

Other staff of Society.

63. (1) The Board shall appoint such employees as it may think necessary for the discharge of the functions of the Society, on such terms as to remuneration or otherwise as it may determine.

(2) The Board shall be responsible for the discipline and removal of employees of the Society.

(3) The Board shall make regulations establishing schemes for pensions, gratuities and other retirement benefits in respect of employees of the Society.

(4) The Board shall, for the purpose of achieving maximum efficiency in the discharge of its functions under this Act, institute schemes for the training of its employees in administrative, technical, managerial and other capacities with a view to securing the benefit of their knowledge, experience and expertise in the conduct of the operations of the Society.

64. The activities of the Society shall be financed by funds consisting of – Funds of Society.

- (a) royalties;
- (b) fees charged for services rendered;
- (c) donations and gifts;
- (d) membership dues; and
- (e) such other monies that may accrue to the Society from any other source.

65. (1) The Society shall keep proper records and books of accounts of its incomes and expenditure. Accounts and audit.

(2) The Society shall prepare a statement of accounts in respect of each financial year.

(3) The Society shall, within three months of the end of each financial year, submit to independent auditors for auditing its statement of accounts for the preceding year.

(4) The audited accounts of the Society and the independent auditors' report shall be submitted to the General Assembly for approval.

66. (1) The Society shall, not later than three months after the end of each financial year, submit to the General Assembly in respect of the financial year an annual report on the activities of the Society. Annual report.

(2) The report under subsection (1) shall include –

- (a) information with regards to the affairs and policy of the Society; and

- (b) such other information as the Minister may request in writing.

(3) The Executive Secretary shall also, from time to time, provide the General Assembly with such information relating to the affairs of the Society as the General Assembly may request in writing.

Service of documents.

67. Any summons or other document required or authorised to be served on the Society in connection with any suit by or against the Society may be served by delivering it to or sending it by registered post addressed to the Executive Secretary.

Execution of judgment.

68. In any action or suit against the Society, no—

- (a) execution or attachment or process in the nature thereof shall be issued against the Society; or
- (b) sums of money which may by judgment of the court be awarded against the Society shall be paid by the Society from its funds, before the expiration at least three months from the date of the judgment of the court.

Representation.

69. In any suit pending before the court, the Society may be represented at any stage of the proceedings by any officer or other employee of the Society duly authorised in writing by the Society in that behalf.

Indemnity of employees of Society.

70. No officer or employee of the Society or a person acting on the direction of the Society shall be liable in respect of a matter or thing done by him in good faith for the purposes of this Act.

PART IX – INFRINGEMENT AND ENFORCEMENT OF COPYRIGHT

Infringement of copyright.

71. (1) Any person who without the authorization of the person whose rights are protected under this Act or the agent of that person –

- (a) reproduces, duplicates, extracts, imitates, imports into or exports out of Sierra Leone, except for his private use, any work;

- (b) causes any work to be reproduced, duplicated, extracted, imitated or imported or exported into the country except for his private use;
- (c) distributes or permits or causes any work to be distributed in the country by way of sale or otherwise;
- (d) sells, offers for sale, exhibits or permits or causes any work to be exhibited in public;
- (e) effects the public performance of any work;
- (f) removes or alters any electronic rights management information;
- (g) distributes, imports for distribution, broadcasts, communicates or makes available to the public, works, performances, copies of fixed performances or sound recordings knowing that electronic right management information has been removed or altered without authority;
- (h) rents or lends to the public any work,

commits an offence and shall be liable on conviction to a fine not exceeding Le60,000,000.00 or to imprisonment for a term not exceeding three years or to both the fine and imprisonment.

(2) The court may in addition to a fine or imprisonment order—

- (a) the copies of works or sound recording suspected of being made or imported without the authorization of the owner of any right protected under this Act where the making or importation of copies is subject to such authorization, or

Civil remedies.

72. (1) The owner of a right protected under this Act whose right has been infringed is entitled to payment, by the defendant for—

- (a) damages suffered as a consequence of the act of infringement; and
- (b) expenses caused by the infringement, including legal costs.

(2) The amount of damages shall be fixed taking into account the importance of—

- (a) the material and moral prejudice suffered by the owner of the right;
- (b) the defendant's profits attributable to the infringement.

(3) Where infringing copies exist, the court may order the destruction or other reasonable disposal of those copies and their packaging outside the channels of commerce in such a manner as to avoid harm to the owner of the right, unless the owner of the right requests otherwise.

(4) Where there is a danger that implements may be used to commit or continue to commit an act of infringement, the Court shall, whenever and to the extent that it is reasonable, order their destruction or other reasonable disposal outside the channels of commerce in such a manner as to minimize the risks of further infringements, including surrender to the owner of the right.

(5) Where there is a danger that an act of infringement may be continued, the court shall —

- (a) expressly order that the act shall not be committed; and

- (b) the packaging of the implements that could be used for the making of, and the documents, accounts or business papers referring to such copies, to be impounded.

- (b) fix a fine which is twice the original fine, which shall be paid if the order is not respected.

73. (1) A person who infringes a right protected under this Act willfully or by gross negligence and for profit-making purposes commits an offence and is liable on conviction to a fine not exceeding Le60,000,000.00 or to imprisonment for a term not exceeding three years or to both the fine and imprisonment.

Criminal sanctions.

(2) The court shall fix the amount of the fine, taking into account the defendant's profits attributable to the infringement.

(3) The court may increase up to double the upper limit of the penalties specified in subsection (1), where the defendant has been convicted for a new act of infringement within five years of a previous conviction for an infringement.

74. (1) The following acts are unlawful and, in the application of section 71, shall be assimilated to infringements of the rights protected under this Act: —

Measures, remedies and sanctions against abuses in respect of technical services.

- (a) the manufacture or importation for sale or rental of any device or means specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work, a sound recording or a broadcast, or to impair the quality of copies made;
- (b) the manufacture or importation for sale or rental of any device or means that will or assist the reception of a can be used for programme, which is broadcast or otherwise communicated to the public, including by satellite, by those who are not entitled to receive the programme;
- (c) the removal or alteration of any electronic information without authority;
- (d) the distribution, import for distribution, broadcasting, communication to the public without authority, of works, performances, sound recordings or broadcasts, knowing or

having reason to know that electronic information has been removed or altered without authority.

(2) In the application of sections 70 to 72, an unlawful device and means mentioned in subsection (1) and a copy from which rights management information has been removed or altered, shall be assimilated to infringing copies of works, and an unlawful act referred to in subsection (1) shall be treated as an infringement of copyright or related rights to which the civil remedies and criminal sanctions provided for in sections 73 to 75 are applicable.

Offence related to folklore.

75. (1) A person who sells, offers or exposes for sale or distribution in Sierra Leone copies of—

- (a) expression of folklore made in or outside Sierra Leone;
- (b) a translation, an adaptation, arrangement or expression of folklore made outside Sierra Leone without the permission in writing of the Registrar;
- (c) willfully misrepresents the source of an expression of folklore, or
- (d) willfully distorts an expression of folklore in a manner prejudicial to the honour, dignity or cultural interests of the community in which it originates,

commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction, in the case of—

(a) an individual, to a fine not exceeding Le20,000,000.00 or imprisonment for a term not exceeding twelve months or to both the fine and imprisonment; and

(b) a body corporate, to a fine of Le60,000,000.00.

(3) The court may order that the infringing or offending article be confiscated.

76. (1) Where an offence is committed by a body of persons under this Act – Offence by bodies of persons.

(a) in the case of a body corporate other than a partner, every director or secretary of the body corporate shall also be deemed to have committed the offence; and

(b) in the case of a partnership, every partner shall also be deemed to have committed the offence.

(2) No person shall be deemed to have committed an offence under this Act if he proves to the satisfaction of the court that the offence of which he is charged was committed by some other person and was without his consent or connivance and that he exercised such diligence to prevent the commission of that offence as he ought to have exercised having regard to the circumstances.

77. In addition to any punishment imposed by the court in respect of an offence under this Act the court may order— Compensation to victim of offence.

(a) that the sums of money arising out of the offence be paid to the person entitled under this Act to those sums; and

- (b) that the reproductions, duplications, extracts, imitations and other materials involved in the infringement, and the implements or devices used in the infringement be forfeited and disposed of as the court may direct having regard to the circumstances relating to the infringement.

Settlement of disputes.

78. (1) Where any dispute arises between any parties under this Act or in relation to any copyright or claim under this Act, the parties involved in the dispute shall first seek to negotiate a settlement of the dispute among themselves.

(2) Where negotiation under subsection (1) fails, a report shall be made by either or both parties to the Registrar who shall mediate for a settlement.

(3) Where no settlement is arrived at upon mediation, the matter shall be referred by the Registrar to the court.

Exploitation prejudicial to author.

79. For the purposes of this Part, the exploitation of a work in a manner prejudicial to the honour or reputation of the author is an infringement of the rights of the author.

PART X – MISCELLANEOUS

Regulations

80. The Minister may, by statutory instrument, make regulations for –

- (a) the registration and deposit of works;
- (b) the levy payable on technical devices used for copyright materials;
- (c) the form and scope of contracts and licences relating to publishing, performing, sound recording and audiovisual productions; and

- (d) generally for carrying into effect the provision of this Act.

81. (1) The Copyright Act, 1965 is hereby repealed.

Repeal of Act
No. 28 of
1965

(2) Notwithstanding the repeal effected by subsection

and savings.

(1)–

(a) any copyright or other rights that were vested in any person by virtue of that Act shall continue to be enforceable as if they were conferred by this Act;

(b) any Regulations made under that Act and in force immediately before the coming into operation of this Act shall continue in force until amended or revoked under this Act;

(c) any appointment made under that Act and valid at the coming into operation of this Act shall remain valid as if made under the corresponding provision of this Act until terminated or otherwise dealt with under this Act.

Passed in Parliament this 13th day of *July*, in the year of our Lord two thousand and eleven.

MOHAMEDLEBBIE,
Officer-in-Charge
Office of the Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

MOHAMEDLEBBIE,
Officer-in-Charge
Office of the Clerk of Parliament.