

# Copyright Act 2022

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## Section Provisions

### **1. Objectives of the Act.** [Return to Main Menu](#)

The objectives of this Act are to:

- (a) protect the rights of authors to ensure just rewards and recognition for their intellectual efforts;
- (b) provide appropriate limitations and exceptions to guarantee access to creative works;

- (c) facilitate Nigeria's compliance with obligations arising from relevant international copyright treaties and conventions; and
- (d) enhance the capacity of the Nigerian Copyright Commission for effective regulation, administration, and enforcement of the provisions of this Act.

## **2. Works eligible for copyright.** [Return to Main Menu](#)

(1) Subject to this Act, the following works shall be eligible for copyright:

- (a) literary works;
- (b) musical works;
- (c) artistic works;
- (d) audiovisual works;
- (e) sound recordings; and
- (f) broadcasts.

(2) Notwithstanding the provision of subsection (1) of this section, literary, musical or artistic work shall not be eligible for copyright unless:

- (a) some effort has been expended on making the work, to give it an original character; and
- (b) the work has been fixed in any medium of expression known or later to be developed, from which it can be perceived, reproduced or otherwise communicated either directly or with the aid of any machine or device.

(3) Any work that meets the requirements set out in subsection (2) of this section shall be eligible for copyright, notwithstanding the quality of the work or the purpose for which the work was created.

(4) A work shall not be ineligible for copyright by reason only that the making of the work or the doing of any act in relation to the work involved an infringement of copyright in some other works.

(5) The copyright in a compilation shall not confer any exclusive right in the pre-existing material or data.

(6) An artistic work shall not be eligible for copyright, if at the time the work is made, it is intended by the author to be used as an industrial design, as defined under the pattern designs.

## **3. Ineligibility for copyright.** [Return to Main Menu](#)

The following shall not be eligible for copyright

- (a) ideas, procedures, processes, formats, systems, methods of operation, concepts, principles, discoveries or mere data;
- (b) official texts of a legislative or administrative nature as well as any official translations thereof; except their compilations; and
- (c) official state symbols and insignia, including flags, coat-of-arms, anthems, and banknote designs.

## **4. Formalities.** [Return to Main Menu](#)

Eligibility for copyright under this Act shall not require any formality.

## **5. Copyright by virtue of nationality or habitual residence.** [Return to Main Menu](#)

Copyright shall be conferred by this section on every work that is eligible, where the author or in the case of a work of joint authorship, any of the authors is at the time when the work or a substantial part thereof made is:

- (a) an individual who is a Nigerian citizen or is habitually resident in Nigeria; or
- (b) a body corporate incorporated by or under the laws of Nigeria.

## **6. Copyright by reference to country of origin.** [Return to Main Menu](#)

Copyright shall be conferred by this section on a work, which is a -

- (a) literary, musical or artistic work or an audiovisual that is first published in Nigeria; or
- (b) sound recording made in Nigeria and has not been the subject of any copyright conferred by section 2 of this Act; or
- (c) broadcast transmitted from Nigeria or by a broadcasting organisation that has its headquarters situated in Nigeria.

**7. Copyright In works of Government State authorities and international bodies.** [Return to Main Menu](#)

Copyright shall be conferred by this section on a work that is eligible and is made by or under the direction or control of a Government, an Agency of Government or a prescribed international body

**8. Copyright by reference to international agreements.** [Return to Main Menu](#)

(1) Copyright shall be conferred by this section on a work, if-

(a) on the date of its first publication, at least one of the authors is a -

(i) citizen of or habitually resident in, or

(ii) 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 Nigeria is a party, or

(b) the work is first published in a country which is a party to an obligation in a treaty or other international agreement to which Nigeria is party.

(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 Nigeria is also a party, a certification from the Commission to that effect shall be conclusive proof of that fact.

**9. Nature of copyright in literary and musical works.** [Return to Main Menu](#)

Subject to the exceptions specified in Part II of this Act, copyright in a literary or musical work shall be the exclusive right to do and authorise the doing of any of the following acts:

(a) reproduce the work;

(b) publish the work;

(c) perform the work in public;

(d) produce, reproduce, perform or publish any translation of the work;

(e) make any audiovisual work or a record in respect of the work;

(f) distribute to the public, for commercial purposes, copies of the work, through sale or other transfer of ownership provided the work has not been subject to distribution authorised by the owner;

(g) broadcast the work;

(h) communicate the work to the public;

(i) make the work available to the public by wire or wireless means in such a way that members of the public are able to access the work from a place and at a time independently chosen by them;

(j) make any adaptation of the work; and

(k) do in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work specified under this section.

**10. Nature of copyright in artistic works.** [Return to Main Menu](#)

(1) Subject to the exceptions specified in Part II of this Act, copyright in an artistic work shall be the exclusive right to do and authorise the doing of any of the following acts -

(a) reproduce the work;

(b) publish the work;

(c) include the work in an audiovisual work;

(d) broadcast the work;

(e) communicate the work to the public;

(f) make the work available to the public by wire or wireless means in such a way that members of the public are able to access the work from a place and at a time individually chosen by them;

(g) make any adaptation of the work; and

(h) do in relation to an adaptation of the work any of the acts specified in relation to the work in subparagraphs (a), (b) and (c) of subsection (1) of this section.

(2) The protection of a three dimensional work of artistic craftsmanship shall not extend to its functional aspects.

(3) Copyright in a work of architecture shall also include the exclusive right to control the erection of any building, which reproduces the whole or a substantial part of the work either in its original form or in any form recognisably derived from the original, but not the right to control the reconstruction in the same style as the original of a building to which the copyright relates.

### **11. Nature of copyright in audiovisual works.** [Return to Main Menu](#)

subject to the exceptions under Part II of this Act, copyright in an audiovisual work shall be the exclusive right to do and authorise the doing of any of the following acts -

- (a) reproduce the audiovisual work;
- (b) cause the audiovisual work that consists of visual images to be seen in public and of sounds to be heard in public;
- (c) communicate the audiovisual work to the public;
- (d) broadcast the audiovisual work;
- (e) make any copy of the sound track of an audiovisual work;
- (f) make the work available to the public by wire or wireless means in such a way that members of the public are able to access the work from a place and at a time independently chosen by them;
- (g) distribute to the public, for commercial purposes, copies of the work, through sale or other transfer of ownership provided the work has not been subject to distribution authorised by the owner;
- (h) make an adaptation of the audiovisual work;
- (i) make a translation of the audiovisual work or any part thereof; and
- (j) do in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work under this section.

### **12. Nature of copyright in sound recordings.** [Return to Main Menu](#)

Subject to the exceptions specified in Part II of this Act, copyright in a sound recording shall be the exclusive right to do and authorise the doing of any of the following act -

- (a) reproduce the sound recording;
- (b) broadcast the sound recording;
- (c) communicate the sound recording to the public;
- (d) make the sound recording available to the public by wire or wireless means in such a way that members of the public are able to access the sound recording from a place and at a time independently chosen by them; or
- (e) distribute to the public for commercial purposes, copies of the sound recording, either by way of rental, lease, hire, loan or similar arrangement; or
- (f) distribute to the public, for commercial purposes, copies of the work, through sale or other transfer of ownership provided the work has not been subject to distribution authorised by the owner.

### **13. Nature of copyright in broadcasts.** [Return to Main Menu](#)

(1) Subject to the exceptions specified in Part II of this Act, copyright in a broadcast shall be the exclusive right to do and authorise the doing of any of the following acts -

- (a) rebroadcasting of the broadcast;
- (b) communication to the public of the broadcast;
- (c) making the broadcast available to the public by wire or wireless means in such a way that members of the public are able to access the work from a place and at a time independently chosen by them;
- (d) fixation of the broadcast;
- (e) reproduction of a fixation of the broadcast;
- (f) adaptation of a fixation of the broadcast; or
- (g) distribution of a fixation of the broadcast or copies thereof for commercial purposes by way of rental, lease, hire, loan or similar arrangement.

(2) The copyright in a television broadcast shall include the right to control the taking of still photographs from the broadcast.

(3) Cable operators who merely retransmit the broadcasts of broadcasting organizations shall not be entitled to the rights provided for in subsection (1) of this section in respect of the broadcasts retransmitted.

### **14. Author's moral rights.** [Return to Main Menu](#)

(1) Subject to Part II of this Act, the author of a work in which copyright subsists has the right to -

- (a) claim authorship of his work, in particular that his authorship be indicated in connection with any of the acts referred to in sections 9, 10 and 11 of this Act, except when the work is incidentally or accidentally included in a broadcast when reporting current events; and
- (b) object and to seek relief in connection with any distortion, mutilation or other modification of, and any other derogatory action in relation to his work, where such action would be or is prejudicial to his honour or



reputation.

- (2) A person has the right to object to a work being falsely attributed to him as the author.
- (3) The rights referred to in subsection (1) of this section shall -
  - (a) not be transmissible during the life of the author; and
  - (b) upon the death of the author, be transmissible by testamentary disposition or by operation of law.
- (4) The rights conferred by this section shall subsist for the duration of the copyright in the work.

**15. Right to remuneration for broadcasting of sound recordings.** [Return to Main Menu](#)

- (1) Where a sound recording has been published for commercial purposes, the performer and owner of copyright of such sound recordings shall enjoy the right to equitable remuneration for any broadcast of the sound recording.
- (2) The remuneration referred to in subsection (1) of this section, shall be paid by the person who uses the sound recordings or copies thereof.
- (3) The amount of remuneration and the conditions of payment shall be as agreed between the users of sound recordings on the one hand, the performer and owner of copyright in sound recordings on the other hand or their representatives; and where the parties fail to reach an agreement, it shall be determined by the Commission.
- (4) Unless otherwise provided for in an agreement, the distribution of the remuneration referred to in subsection (1) of this section between the performer and the owner of copyright in the sound recording shall be determined by the Commission.
- (5) Where remuneration is to be received on behalf of a performer and the owner of copyright in the sound recording by more than one collective management organization, the collective management organizations concerned shall agree on which of them shall collect such remuneration on their behalf, failing which the Commission may specify accordingly,
- (6) The provisions of subsection (1) of this section shall be exercised without prejudice to the right of a copyright owner to obtain remuneration for the use of his work fixed in such sound recording.
- (7) For the purposes of this section, sound recordings made available to the public by wire or wireless means in such a way that members of the public may be accessed from a place and at a time independently chosen by them shall be deemed as published for commercial purposes.
- (8) In the exercise of the rights under this section, the performer and owner of copyright in a sound recording shall have a right to the logs, statements and information relating to the broadcast of the sound recording.

**16. Broadcasting of works Incorporated in an audiovisual work.** [Return to Main Menu](#)

- (1) Where the owner of the copyright in a literary, musical or artistic work, authorises a person to incorporate the work in an audiovisual work and a broadcasting organization broadcasts the audiovisual work with the authorisation of the owner of the copyright in the audiovisual work, the owner of the copyright in the literary, musical or artistic work incorporated in the audiovisual work, shall, in the absence of any express agreement to the contrary between the owner of the underlying work and the owner of the audiovisual work, be deemed to have authorised the broadcast of the audiovisual work.
- (2) Notwithstanding subsection (1) of this section, the owner of the right to broadcast the work shall, subject to this Act, be entitled to receive fair compensation from the broadcasting organization.
- (3) In the absence of an agreement on the compensation payable under subsection (2) of this section, the amount of compensation shall be determined by the Commission.

**17. Right to share in proceeds of sale.** [Return to Main Menu](#)

(1) Notwithstanding any assignment or sale of the original work, an author of an artistic work, manuscript of a literary work or of a musical composition, shall have an inalienable right to a share in the proceeds of any sale of that work or manuscript, by public auction or through a dealer, subsequent to the first transfer by the author.

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

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

(4) The provisions of this section shall not apply to architectural works or works of applied art.

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

#### **18. Commencements of rights.** [Return to Main Menu](#)

Subject to the provisions of sections 3, 4, 5, 6, 7 and 8 of this Act, copyright shall commence when the work is created or made.

#### **19. Duration of copyright.** [Return to Main Menu](#)

(1) The duration of copyright conferred under this Act shall be, in the case of-

(a) literary, musical or artistic works other than photographs, seventy years after the end of the year in which the author dies;

(b) works deriving copyrights from section 7 of this Act, fifty years after the end of the year in which the work was first made available to the public or fifty years after the work was created, if not made available to the public within that time;

(c) audiovisual works and photographs, fifty years after the end of the year in which the work was first made available to the public with the consent of the author or fifty years after the work was created, if not made available to the public within that time;

(d) sound recordings, fifty years after the end of the year in which the recording was first made available to the public with the consent of the author or fifty years after the work was created, if not made available to the public within that time; and

(e) broadcasts, fifty years after the end of the year in which the broadcast first took place.

(2) Copyright in anonymous or pseudonymous literary, musical or artistic works shall subsist until seventy years after the year in which the work was first made available to the public with the consent of the author or seventy years after the work was created, if not made available to the public within that time, provided that when the author becomes known, the duration of copyright shall be in accordance with the provisions of subsection (1) of this section.

(3) In joint authorship work, reference to the death of the author shall be to the author who dies last.

#### **20. General exceptions.** [Return to Main Menu](#)

(1) The rights conferred in respect of a work by sections 9, 10, 11, 12 and 13 of this Act, do not include the right to control -

(a) any of the acts specified in those sections by way of fair dealing for purposes such as -

(i) private use;

(ii) parody, satire, pastiche, or caricature;

(iii) non-commercial research and private study;

(iv) criticism, review or the reporting of current events, subject to the condition that, if the use is public, it shall, where practicable, be accompanied by an acknowledgment of the title of the work and its author except where the work is incidentally included in a broadcast;

provided that in determining whether the use of a work in any particular case is fair dealing, the factors to be considered shall include the -

(i) purpose and character of its usage;

(ii) nature of the work;

(iii) amount and substantiality of the portion used in relation to the work as a whole; and

(iv) effect of the use upon the potential market or value of the work,

- (b) the inclusion in an audiovisual work or a broadcast of an artistic work situated in a place where it can be viewed by the public;
- (c) the incidental inclusion of an artistic work in an audiovisual work or broadcast;
- (d) quotations in the form of short excerpts from a work;
- (e) reading or recitation in public or in a broadcast, not for commercial purposes, of any reasonable extract from a published literary work if, accompanied by an acknowledgment of the title of the work and its author;
- (f) any use made of a work by or under the direction or control of the Government or by such public libraries, non-commercial documentation centres and scientific or other institutions as may be prescribed, where the use is in the public interest, provided that -
  - (i) no revenue is derived therefrom, and
  - (ii) the use does not substantially affect the potential market or value of the work;

- (g) the reproduction of a work by or under the direction or control of a broadcasting organization, where the reproduction or any copies thereof are intended exclusively for a lawful broadcast and are destroyed before the end of the period of six months immediately following the making of the reproduction or such longer period as may be agreed between the broadcasting organization and the owner of the relevant part of the copyright in the work, provided that any reproduction of a work made under this paragraph -
  - (i) may, if it is of an exceptional documentary character, be preserved in the archives of the broadcasting organization;
  - (ii) shall not be used for any other purpose without the consent of the owner of copyright in the relevant part of the work;
  - (iii) "lawful broadcast" in this paragraph means a broadcast that does not infringe on the copyright in the work,

- (h) news of the day for public broadcast or publicly communicated by any other means;
- (i) any use made of a work for the purpose of judicial or legislative proceedings or the reporting of such proceedings;
- (j) the making of not more than three copies of a work, by or under the direction of the person in charge of a public library, for the use of the library, where such a work is not available for purchase;
- (k) reproduction for the purpose of research or private study of an unpublished literary or musical work kept in a library, museum or other similar institutions to which the public has access;
- (l) transient and incidental reproductions, which are integral and essential parts of a technological process, whose sole purpose is to enable transmission in a network between third parties by an intermediary or for other lawful use, where such use has no independent economic significance;
- (m) without prejudice to section 26 of this Act, use for the benefit of people with disability and of a non-commercial nature, to the extent required by the specific disability;
- (n) use of an artistic work in the form of a building model or a drawing or plan of a building for the purposes of reconstructing the building;
- (o) communication or making available of works and other material not subject to purchase or licensing terms to members of the public for the purpose of research or private study through dedicated terminals on the premises of publicly accessible libraries, educational establishments, museums and archives.

- (2) Notwithstanding the provisions of section 9 of this Act, reproduction of a copy or the adaptation of a computer program is permitted, if the copy or adaptation is necessary for -
  - (a) use with a computer for the purpose for which the computer program was obtained;
  - (b) archival purposes or as a replacement, in the event that the original copy of the computer program is lost, destroyed or rendered unusable;
  - (c) the activation of a machine that lawfully contains an authorised copy of the computer program, for purposes of maintenance or repair only of that machine, subject to the condition that —
    - (i) such new copy is used in no other manner and is destroyed immediately after the maintenance or repair is completed; and
    - (ii) with respect to any computer program or part that is not necessary for that machine to be activated, such program or part is not accessed or used other than to make such new copy by virtue of the activation of the machine.

- (3) Any contractual term which purports to restrict or prevent the doing of any act permitted under this Act

shall be void.

**21. Acts for purposes of instruction or examination.** [Return to Main Menu](#)

(1) Copyright in a literary, musical or artistic work is not infringed by its being copied in the course of instruction or of preparation for instruction, provided the copying is done by a person giving or receiving instruction and is not by means of a reprographic process.

(2) Copyright in a sound recording, audiovisual work, broadcast or cable programme is not infringed by its being copied in the course of instruction at a non-profit educational institution or of preparation for instruction, provided the copying is done by and used for the instruction by a person giving or receiving instruction.

(3) Copyright in a work is not infringed by anything done for the purposes of an examination by way of setting, communicating or answering questions.

**22. Recording of broadcasts by educational establishments.** [Return to Main Menu](#) (1) Subject to subsection (2) of this section, the recording of a broadcast or cable programme or a copy of such a recording by or on behalf of an educational establishment for educational purposes of that establishment shall not infringe the copyright in the broadcast or cable programme or in any work included in it.

(2) Subsection (1) of this section shall not apply to the extent that there is a licensing scheme for the purposes of this section.

**23. Restriction on reprographic copying by educational institutions.** [Return to Main Menu](#)

(1) Subject to the provisions of this section, the reprographic copying of passages from published literary or musical works by or on behalf of an educational establishment for the purposes of instruction shall not infringe the copyright in the work.

(2) Notwithstanding the provisions of subsection (1) of this section, not more than five per cent of a work shall be copied by or on behalf of an educational establishment within a period of three months.

(3) The provisions of this section shall not apply where there is a licensing scheme for reprographic copying.

(4) Any term of a licence which purports to restrict the proportion of work, which may be copied to less than that permitted under this section shall be of no effect.

**24. Subsequent dealings with authorised copies.** [Return to Main Menu](#)

(1) Where a copy of a work authorised under sections 21, 22 and 23 of this Act is subsequently dealt with by way of sale, offering for sale or rental, it shall be treated as an infringing copy for the purposes of that dealing.

(2) Where a person requesting a copy makes a declaration that is false in a material particular and is supplied with the copy, which would have been an infringing copy, if made by him, that person shall be liable for infringement of copyright as if, he had made the copy himself and the copy supplied shall be treated as an infringing copy.

**25. Special provisions for archives, libraries, museums and galleries.** [Return to Main Menu](#)

Notwithstanding the provisions of sections 9, 10, 11, 12 and 13 of this Act, archives, libraries, museums and galleries, may for noncommercial purposes:

- (a) make and distribute copies of works protected under this Act as part of their ordinary activities;
- (b) make copies of works in their collection for the purpose of back-up and preservation;
- (c) make or procure a copy of any missing part of a work in its collection from another institution;
- (d) make or procure a copy of any work that is or should be available in its collection in any chosen format, where the work cannot reasonably be acquired in that format through general trade or from the publisher;
- (e) make or procure a copy of any work where the permission of the owner of the copyright cannot be obtained, after reasonable effort, or where the work is not available by general trade or from the publisher.

- (2) Copies of works made in whatever format in accordance with subsection (1) of this section may be -
  - (a) lent to users; or
  - (b) used for private study or research on the premises of the institution with or without the means of technical equipment.

**26. Special exceptions for blind, visually impaired, or otherwise print disabled persons.** [Return to Main Menu](#)

- (1) Notwithstanding the provisions of any other section of this Act, an authorised entity may, without the permission of the owner of copyright in a work, make or procure an accessible format copy of a work or subject matter and supply the copy thereof to beneficiary persons by any means, including non-profit lending, or electronic communication by wire or wireless means, on the condition that the-
  - (a) authorised entity desiring to undertake any of the activities under this section has lawful access to that work or subject matter or a copy of that work or subject matter;
  - (b) work or subject matter is converted to an accessible format copy;
  - (c) accessible format copy is supplied to be used exclusively by beneficiary persons; and
  - (d) activity is undertaken on a non-profit basis.
- (2) For the purpose of the requirement of subsection (1), paragraph (c) of this section, an authorised entity shall establish and follow its own practices, to -
  - (a) establish that the persons it serves are beneficiary persons;
  - (b) limit its distribution to beneficiary persons or authorised entities and in making available of accessible format copies;
  - (c) discourage the reproduction, distribution and making available of unauthorised copies; and
  - (d) maintain due care in, and records of, its handling of copies of works or other subject matter while respecting the privacy of beneficiary persons.
- (3) A beneficiary person is permitted to make an accessible format copy of a work or other subject matter for his personal use, where he has lawful access to that work or subject matter or a copy of that work or subject matter.
- (4) A person acting on behalf of a beneficiary person, including a primary caretaker or caregiver, may assist the beneficiary person to make accessible format copies where the beneficiary person has lawful access to that work or subject matter or a copy of that work or subject matter.
- (5) An authorised entity may, without the permission of the owner of a copyright, distribute or make available accessible format copies to an authorised entity in another country for the exclusive use of beneficiary persons or to a beneficiary person in another country; provided that prior to the distribution or making available, the said authorised entity did not know or have reasonable grounds to know that the accessible format copy would be used other than for the beneficiary persons.
- (6) An authorised entity, a beneficiary person or a person acting on his behalf including a primary caretaker or caregiver, may without the permission of the owner of copyright import an accessible format copy> including by wire or wireless means.
- (7) For the purposes of this section -
  - (a) "works" include literary and artistic works in the form of text, notation or related illustrations that are not available in accessible formats;
  - (b) "accessible format copy" means a copy of a work in an alternative manner or form which -
    - (i) gives a beneficiary person access to the work, as feasibly and comfortably as a person without visual impairment or other print disability, and
    - (ii) respects the integrity of the original work, taking due consideration of the changes needed to make the work accessible in the alternative format and of the accessibility needs of the beneficiary persons;
  - (c) "authorised entity" means -
    - (i) an entity that is authorised or recognized by the government, or receives financial support from the government, to provide education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis; or
    - (ii) a government institution or non-profit organization that provides education, instructional training,



adaptive reading or information access to beneficiary persons as part of its primary activities or institutional obligations.

(d) "beneficiary person" means a person who, regardless of any other disabilities -

(i) is blind;

(ii) has a visual impairment or a perceptual or reading disability which cannot be improved to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or disability; or

(iii) is otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading.

## **27. Special exceptions in respect of sound recordings of musical works.** [Return to Main Menu](#)

(1) The copyright in a musical work is not infringed by a person who makes a recording of the work or of an adaptation thereof in Nigeria, if-

(a) recording of the work or adaptation thereof, has previously been made, imported into or otherwise made available in Nigeria, for the purpose of retail sale with the consent or licence of the owner of the copyright;

(b) before making the recording, the person gives notice in the prescribed manner of his intention to record to the owner of the copyright or the relevant approved collective management organization;

(c) the person pays to the owner of the copyright or the relevant approved collective management organisation a royalty of an amount equal to a percentage of the ordinary retail selling price of the record calculated in accordance with regulations made by the Commission.

(2) Where a recording comprises two or more musical works in which copyright subsists and the owners of the copyright in the works are different persons, the royalty shall be apportioned among them in such manner as they may agree or in default of such agreement, in accordance with the rules of the relevant collective management organizations or the regulations made under this Act.

(3) Where a recording comprises of a performance of a musical work or of an adaptation of a musical work, in which words comprised in a literary work are sung or are spoken and no copyright subsists in that literary work or where copyright subsists, the conditions specified in subsection (1) of this section are fulfilled in relation to that copyright, the making of the recording shall not constitute an infringement of the copyright in the literary work.

(4) The provisions of subsection (3) of this section, shall not be construed as requiring the payment of more than one royalty in respect of a recording and where copyright subsists in both the musical work and literary work and their owners are different, the royalty shall be apportioned among them and any other person entitled to a share thereof, as they may agree or in default of agreement, shall be determined by the rules of the relevant collective management organization or the regulations made under this section.

(5) For the purpose of this section, an adaptation of a work shall be taken to be similar to an adaptation contained in previous records, if the two adaptations do not differ substantially in their treatment of the work, in respect of style or apart from a difference in number of the performers required to perform the adaptations.

(6) The Commission shall have power to make regulations providing for conditions necessary to give effect to the purposes of this Part.

## **28. First ownership of copyright.** [Return to Main Menu](#)

(1) Except as otherwise provided in an agreement, copyright conferred by this Act, shall initially vest in the author.

(2) Where a person in the absence of an agreement to the contrary, creates a work under a contract for services, or in the course of employment by a Government, a Ministry, Department or Agency of a government or a prescribed international or inter-governmental organization, the copyright in that work shall vest in that Government, Ministry, Department, Agency, prescribed international or intergovernmental organization.

(3) Notwithstanding subsection (1) of this section and subject to any agreement between the parties, where a person for private and domestic purposes, commissions the taking of a photograph or the painting or drawing of a portrait or the making of an audiovisual work, the person who commissioned the work shall be -

- (a) deemed to have a non-exclusive licence to exploit the commissioned work for noncommercial purposes; and
- (b) entitled to restrain the publication, exhibition, broadcasting, communication, distribution and making available of copies of the work to the public.

### **29. Ownership of copyright in collective works.** [Return to Main Menu](#)

Except as otherwise provided by agreement -

- (a) copyright in a collective work shall vest in the person on whose initiative or direction the work was created.
- (b) the authors of the works incorporated in a collective work shall have the right to exploit their works independent of the right in the collective work.

### **30. Assignment and licence.** [Return to Main Menu](#)

(1) For the purpose of Chapter 4 of the Constitution of the Federal Republic of Nigeria 1999, as amended, copyright shall be deemed to be movable property and shall be transferable by way of assignment, testamentary disposition or operation of law.

(2) An assignment or testamentary disposition of copyright may be limited to only some of the acts, which the owner of the copyright has the exclusive right to control or to a part only of the period of the copyright, or to a specified country or other geographical area.

(3) An assignment of copyright or an exclusive licence to do an act, the doing of which is controlled by copyright, shall have no effect unless it is in writing.

(4) A non-exclusive licence to do an act, the doing of which is controlled by copyright, may be written, oral, or inferred from conduct of the owner of copyright.

(5) An assignment or licence granted by one copyright owner, shall have effect as if granted by his co-owner and subject to any agreement between them, any fee received shall be divided equitably among the co-owners.

(6) For the purposes of this section, persons shall be deemed to be co-owners, if they - (a) share joint interest in the whole or any part of a copyright; or (b) have interests in the copyright in various works comprised in a production of two or more works.

(7) Ownership of a material in which a work is embodied shall not confer ownership of copyright in the work.

(8) Except as may otherwise be provided for in an agreement, an owner of copyright who transfers the ownership of the material in which the work is embodied, shall not be deemed to have transferred his copyright or to have granted a licence for the exploitation of the work.

(9) Except as may otherwise be provided for in an agreement, an owner of copyright who transfers his copyright or grants a licence for the exploitation of a work shall not be deemed to have transferred the ownership of the material in which the work is embodied.

(10) An assignment, licence or testamentary disposition, may be granted or made in respect of a future work or an existing work in which copyright does not subsist, provided that it shall not be permitted to transfer the rights in all future works of an author.

(11) A testamentary disposition of a material on which a work is first written or recorded shall, in the absence of any Indication to the contrary, be presumed to include any copyright or prospective copyright in the work, which is vested in the deceased.

### 31. Compulsory licence to produce and publish translations. [Return to Main Menu](#)

- (1) Any qualified person may, for the purposes of teaching, scholarship or research, apply to the Commission for a licence to produce and publish a translation of a literary work, which has been published in printed or analogous forms of reproduction.
- (2) An application under this section shall be made in the prescribed form and shall state the proposed retail price of a copy of the translation of the work.
- (3) An applicant for a licence under this section shall pay such fee as may be prescribed by the Commission.
- (4) Where an application is made to the Commission under this section, the Commission may grant to the applicant a non-exclusive licence to produce and publish a translation of the work in the language mentioned in the application subject to the conditions that—
  - (a) the applicant shall pay to the owner of the copyright in the work, royalties in respect of copies of the translation of the work produced, calculated at such rate as the Commission may, in the circumstances of each case determine and consistent with the standards for licences freely negotiated between persons in Nigeria and owners of translation rights in their country;
  - (b) the licence shall not extend to the export of copies of the translation of the work outside Nigeria; and
  - (c) every copy of such translation shall contain a notice in the language of the translation that the copy is available for distribution only in Nigeria.
- (5) Subsection (4) of this section shall not apply to export by Government or any of its agencies, of copies of such translation in a language other than English to any country, if such copies are -
  - (a) sent to citizens of Nigeria residing outside Nigeria or to any association of such citizens outside Nigeria; or
  - (b) meant to be used for purposes of teaching, scholarship or research and the government of the country to which the copies are exported agree to receive or distribute the copies.
- (6) A licence shall not be granted by the Commission under this section until the expiration of-
  - (a) one year from the date of first publication of the work, where the application is for a licence for translation into any language spoken in Nigeria other than English; or
  - (b) three years from the date of first publication of the work, where the application is for a licence for translation into English.
- (7) A licence shall not be granted by the Commission, except-
  - (a) the Commission is satisfied that no translation of the work into the language in question has been published in printed or analogous forms of reproduction, by or with the permission of the owner of the right of translation or that all previous editions in that language are out of print;
  - (b) the applicant has proved to the satisfaction of the Commission that he had requested and had been denied permission by the owner of the copyright to produce and publish such translation or that he was, after due diligence on his part, unable to find such owner;
  - (c) where the applicant after due diligence on his part, was unable to find the owner of the copyright and that he had sent a request for permission to the publisher whose name appears on the work, not less than two months before applying for the licence;
  - (d) the applicant had at the time he submitted an application under this section informed any national or international information centre designated for this purpose by the government of the country in which the publisher of the work to be translated is believed to have his principal place of business;
  - (e) the Commission is satisfied that the applicant is competent to produce and publish a correct translation of the work and possesses the means to pay to the owner of the copyright the royalties required to be paid to him under this Bili;
  - (f) a period of six months, in the case of an application for a licence for translation into English or nine months in the case of an application for a licence for translation into any other language spoken in Nigeria has lapsed from the date of making the request under subsection (1) paragraph (b) of this section;
  - (g) where a request has been sent under subsection (1) paragraph (c) of this section, a period of six months has lapsed from the date of sending the request and the translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorised by him within a period of nine months;
  - (h) the name of the author and the title of the particular edition of the work proposed to be translated are



printed on all copies of the translation;

(i) where the work is composed mainly of illustrations, the provisions of section 6 of this Act are complied with;

(j) the author has not withdrawn copies of the work from circulation; and

(k) an opportunity of being heard is given by the Commission, wherever practicable, to the owner of the copyright in the work

(8) The Commission may withdraw the licence granted under this section where the circumstance that led to its grant has ceased to exist.

### **32. Compulsory licence to reproduce and publish works for certain purposes.**

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(1) Where, after the expiration of the relevant period from the date of the first publication of an edition of a literary or artistic work -

(a) the copies of such edition are not made available in Nigeria; or

(b) such copies have not been put on sale in Nigeria for a period of six months, by the owner of the right of reproduction or by any person authorised by him in that behalf to the general public, or in connection with systematic instructional activities at a price reasonably related to that normally charged in Nigeria for comparable works, a qualified person may apply to the Commission for a licence to reproduce and publish the work in any form, for the purpose of systematic instructional activities, at the price for which such edition is sold or at a lower price.

(2) An application under this section shall be made in a prescribed form and shall state the proposed retail price of a copy of the work to be reproduced.

(3) An applicant for a licence under this section shall pay such fees as may be prescribed by the Commission.

(4) Where an application is made to the Commission under this section, the Commission may grant to the applicant a non-exclusive licence to produce and publish a reproduction of the work mentioned in the application subject to the conditions that -

(a) the applicant shall pay to the owner of the copyright in the work, royalties in respect of copies of the reproduction calculated at such rate as the Commission may, in the circumstances of each case determine as consistent with the standards for licences freely negotiated between persons in Nigeria and owners of reproduction rights in their country;

(b) the licence shall not extend to the export of copies of the reproduction of the work outside Nigeria; and

(c) every copy of such reproduction shall contain a notice that the copy is available for distribution only in Nigeria.

(5) A licence shall not be granted by the Commission, except -

(a) the applicant has proved to the satisfaction of the Commission that he had requested and had been denied permission by the owner of the copyright to reproduce and publish such work, or that he was, after due diligence on his part, unable to find such owner;

(b) where the applicant exercised due diligence and was unable to find the owner of the copyright and that he had sent a request for permission to the publisher whose name appears on the work, not less than three months before applying for the licence;

(c) the applicant had at the time he submitted an application under this section informed any national or international information centre designated for this purpose by the government of the country in which the publisher of the work to be reproduced is believed to have his principal place of business;

(d) the Commission is satisfied that the applicant is competent to reproduce and publish an accurate reproduction of the work and possesses the means to pay to the owner of the copyright, the royalties required to be paid to him under this section;

(e) the applicant undertakes to reproduce and publish the work at such price as may be fixed by the Commission at a price normally charged in Nigeria for similar works of the same standard;

(f) a period of six months, in the case of an application for the reproduction and publication of any work of natural science, physical science, mathematics or technology or a period of three months in the case of an application for the reproduction and publication of any other work, has lapsed from the date of making the request under subsection (1) paragraph (a) of this section or where a copy of the request has been sent under

subsection (1) paragraph (b) of this section, from the date of sending of a copy and a reproduction of the work has not been published by the owner of the copyright in the work or any person authorised by him within a period of six months or three months, as the case may be;

(g) the name of the author and the title of the particular edition of the work proposed to be reproduced are printed on all the copies of the reproduction;

(h) the author has not withdrawn copies of the work from circulation; and

(i) an opportunity of being heard is given by the Commission, wherever practicable, to the owner of the copyright in the work.

(6) Notwithstanding the provisions of this section, a licence to reproduce and publish translation of a work shall not be granted save such translation has been published by the owner of the right of translation in a language spoken in Nigeria.

(7) The provisions of sections 31 and 32 of this Act shall also apply to the reproduction and publication or translation into a language spoken in Nigeria, of any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities.

(8) In this section - “relevant period” in relation to any work, means a period of:

(a) seven years from the date of the first publication of a work in respect of fiction, poetry, drama, music or art; and

(b) three years from the date of the first publication of a work in respect of natural science, physical science, mathematics or technology.

### **33. Licence for broadcasting organisations.** [Return to Main Menu](#)

(1) A broadcasting organisation in Nigeria may apply to the Commission for a licence to produce and publish, for non-commercial purposes, the translation of -

(a) a work referred to in section 31 of this Act; or

(b) any text incorporated in audio-visual works, prepared and published solely for the purpose of systematic instructional activities, for broadcasting such translation for the purpose of teaching or for the dissemination of the results of specialised, technical or scientific research to the experts in any particular field.

### **34. Definitions for the purposes of sections 31, 32 to 33.** [Return to Main Menu](#)

(1) For the purposes of sections 31 to 33 of this Act: “qualified person” means -

(a) a citizen of Nigeria or an individual habitually resident in Nigeria; or

(b) a body corporate incorporated under any written law in Nigeria.

(2) “research” shall not include industrial research or research carried out by bodies corporate not owned or controlled by the Government, carrying on any business.

(3) “purposes of teaching, research or scholarship” includes all types of organised educational and instructional activities at any level in educational institutions.

### **35. Compulsory licence for public interest.** [Return to Main Menu](#)

(1) Notwithstanding the provisions of this Act, the Commission may authorise the use of a work by any person for the purpose of rectifying the abuse of a dominant market position or to promote public interest.

(2) An application for a licence under this section shall be made in a manner prescribed, accompanied with evidence of payment of a prescribed fee and good cause shown for the grant of the licence by the Commission.

(3) The Commission may authorise the use of a work under subsection (1) of this section after taking into consideration that the -

(a) proposed user has made reasonable effort to obtain permission from the owner of copyright on reasonable commercial terms and conditions and that the effort was not successful;

(b) scope, medium and duration of the use shall be limited to the purpose for which it was authorised;

(c) use shall be non-exclusive and non-assignable;

(d) use shall be exclusively for Nigeria’s domestic market; and

(e) copyright owner receives payment of adequate remuneration, taking into account the economic value of

the work authorised to be used.

(4) Subject to adequate protection of the interests of the authorised persons, the authorisation may be withdrawn where the circumstances that led to its grant has ceased to exist.

(5) The Commission may waive the condition stipulated in subsection (3) paragraph (a) of this section in the event of national emergency or other circumstances of extreme urgency and notify the owner of copyright.

(6) The Commission may make regulations providing for conditions necessary to give effect to the provisions of this section.

(7) A person who is dissatisfied with an authorisation granted by the Commission under this section or any remuneration required to be paid pursuant to authorisation granted by the Commission, may apply to the Court for a review.

### **36. Infringement of copyright.** [Return to Main Menu](#)

Copyright is infringed by any person who without the authorisation of the owner of the copyright -

(a) does or causes any person to do an act, which constitutes a violation of the exclusive rights conferred under this Act;

(b) imports or causes to be imported into Nigeria any copy of a work which if it had been made in Nigeria would be an infringing copy under this Act;

(c) sells, offers for sale or hire any work in respect of which copyright is infringed under paragraph (a) of this subsection;

(d) makes or has in his possession, plates, master tapes, machines, equipment or contrivances used for the sole purpose of making infringing copies of the work;

(e) permits a place of public entertainment or of business to be used for a public performance of the work, where the performance constitutes an infringement of copyright in the work, unless the person permitting the place to be used was not aware and had no reasonable ground to suspect that the performance constitutes an infringement of the copyright;

(f) permits within its premises, the reproduction of a copyright work; or

(g) performs or causes to be performed for the purposes of trade or business or the promotion of a trade or business, any work in which copyright subsists.

(2) The doing of any of the acts referred to in this section shall be in respect of the whole or a substantial part of the work either in its original form or in any form recognisably derived from the original.

### **37. Action for infringement.** [Return to Main Menu](#)

(1) Subject to the provisions of this Act, infringement of copyright shall be actionable at the instance of the owner, assignee or an exclusive licensee of the copyright in the court exercising jurisdiction in the place where the infringement occurred.

(2) In any action for an infringement of copyright, the plaintiff shall be entitled to reliefs such as damages, injunction, accounts or as is available in any corresponding proceedings in respect of infringement of other proprietary rights.

(3) Where an action for infringement of copyright brought by the copyright owner or an exclusive licensee relates to an infringement in respect of which both have concurrent rights of action, the copyright owner or the exclusive licensee may not, without the leave of court, proceed with the action unless the other is joined as a plaintiff or added as a defendant.

(4) In an action for infringement of copyright, where it is proved or admitted that an infringement was committed, but that at the time of infringement, the defendant was not aware and had no reasonable grounds to suspect that copyright subsisted in the work to which the action relates, the plaintiff shall not be entitled to any damages against the defendant in respect of the infringement, but shall be entitled to an account of profits in respect of the infringement, whether or not any other relief is granted.

(5) Where in an action under this section, an infringement of copyright is proved or admitted and the court in which the action is brought, is satisfied that effective relief would not otherwise be available to the

plaintiff, the court, in assessing damages for the infringement, shall have power to award such additional damages as the court may consider appropriate in the circumstances and having regard to -

(a) the flagrancy of the infringement; and

(b) any benefit shown to have accrued to the defendant by reason of the infringement.

(6) In any proceeding for infringement of copyright, no order shall be made, which requires a completed or an uncompleted building to be demolished or prevents the completion of an uncompleted building.

(7) Any disputes arising from the exercise of a right under this Act, may be subject to arbitration and may be resolved by any means agreed to by the parties to the dispute.

(8) In this section, "action" includes a counterclaim and references to the plaintiff or the defendant, shall be construed accordingly.

### **38. Order for inspection and seizure.** [Return to Main Menu](#)

(1) In any action for infringement of any right under this Act, where an ex parte application is made to the court, supported with an affidavit, that there is reasonable cause to suspect that there is in any house or premises an infringing copy or any plate, film, device or contrivance used, intended to be used or capable of being used for the purpose of making infringing copies, the court may issue an order as it deems just, authorising the applicant to enter the house or premises at any reasonable time by day or night accompanied by a police officer or a Copyright Officer, to -

(a) seize, detain and preserve the infringing copy or contrivance; and

(b) inspect any document, relating to the action, in the custody or under the control of the defendant.

(2) Any person who knowingly gives false information under this section shall be guilty of an offence and liable on conviction to a fine of not less than N100,000.00 or to imprisonment for a term of not less than 1 year or to both.

### **39. Limitation to the right of action.** [Return to Main Menu](#)

Notwithstanding the provisions of this Act or any other law, no action for an infringement of copyright or any right under this Act shall be commenced or maintained by any person or organisation, who -

(a) engages in the business of negotiating and granting of licence;

(b) collects and distributes royalties in respect of copyright works; and

(c) represents more than 50 owners of copyright in any category of works protected under this Act, unless it is approved under section 88 of this Act to operate as a collective management organization or issued with a certificate of exemption by the Commission.

### **40. Forfeiture of infringing copies.** [Return to Main Menu](#)

Where a person has an infringing copy of a work in his possession, custody, or control in the course of business or has in his possession, custody or control an article specifically designed or adapted for making copies of a particular copyright work, knowing or having reason to believe that it has been or is to be used to make infringing copies, the owner of the copyright in the work may apply to the court for an order that the infringing copy or article be -

(a) forfeited to him or any other person, or

(b) destroyed or otherwise dealt with as the court may deem fit.

### **41. Infringement actionable as a breach of statutory duty.** [Return to Main Menu](#)

(1) An infringement of the rights conferred by section 14 of this Act is actionable as a breach of statutory duty owed to the person entitled to the right.

(2) In any proceeding for infringement of a right conferred under section 14 of this Act, the person whose rights has been infringed upon shall be entitled to an award of damages, injunction and any other remedy as the court may deem fit to award in the circumstances.

### **42. Admissibility of affidavit evidence.** [Return to Main Menu](#)

Any of the following facts shall be admitted in any proceedings without further proof, if they are stated in an affidavit made before a Commissioner for Oaths, notary public or other person competent to administer an oath in terms of the law of the country where the oath is made, by or on behalf of the owner of the copyright in a work, that -

- (a) at the time specified therein, copyright subsists in the work;
- (b) the person named therein is the owner of the copyright in the work;
- (c) a copy of the work exhibited to the affidavit is a true copy of the work;
- (d) the author of the work is a citizen of or domiciled in a country named in the affidavit;
- (e) the author of the work is a body corporate established or incorporated by or under the laws of the country named in the affidavit;
- (f) the work was first made or published in the country named in the affidavit; and
- (g) the certificate attached to the affidavit is a true copy of the certificate or registration of that incorporation.

#### **43. Presumptions.** [Return to Main Menu](#)

In an action for infringement of copyright in a work, whether civil or criminal, the following shall be presumed, where such work has been registered under section 87 of this Act -

- (a) that copyright subsists in the work which is the subject matter of an alleged infringement;
- (b) that the name appearing on the work purporting to be the name of the author, is the name of such author;
- (c) that the name appearing on the work purporting to be that of the publisher or producer of the work is the name of such publisher or producer;
- (d) where the author is dead, that the work is an original work; and
- (e) that it was published or produced at the place and on the date appearing on the work.

#### **44. Criminal liability.** [Return to Main Menu](#)

(1) Any person who -

- (a) makes or causes to be made for sale, hire or for the purposes of trade or business any infringing copy of a work in which copyright subsists;
- (b) imports or causes to be imported into Nigeria, other than for private or domestic use, a copy of any work which, if it had been made in Nigeria, would be an infringing copy; or
- (c) has in his possession, any plate, master tape, machine, equipment, device or contrivance for the purposes of making any infringing copy of any such work, is guilty of an offence and liable on conviction to a fine of not less than N10,000.00 for every copy dealt with in contravention of this section or to imprisonment for a term of not less than 5 years or to both.

(2) Any person who -

- (a) sells, lets for hire or for the purposes of trade or business, exposes or offers for sale any infringing copy of a work;
- (b) distributes for the purposes of trade or business any infringing copy of a work;
- (c) has in his possession other than for his private or domestic use, any infringing copy of a work; or
- (d) has in his possession, sells, lets for hire or distributes for the purposes of trade or business or exposes or offers for sale or hire any copy of a work which if it had been made in Nigeria would be an infringing copy, is guilty of an offence and liable on conviction to a fine of not less than N10,000.00 for every copy dealt with in contravention of this section or to imprisonment for a term of not less than 3 years or to both.

(3) A person is not guilty of an offence under subsections (1) and (2) of this section if, he proves to the satisfaction of the court that he did not know and had no reason to believe that the copy was an infringing copy of any work or that the plate, master tape, machine, equipment or contrivance was for the purpose of making infringing copies of any such work.

(4) Any person who, without the consent of the owner, distributes to the public for commercial purposes, by way of rental, lease, hire, loan or similar arrangement, copies of a work in which copyright subsists, is guilty of an offence under this Act and liable on conviction to a fine of not less than N1,000.00 for every copy dealt with or to imprisonment for a term of not less than 3 years or to both.

(5) The court before which any proceeding is taken for an offence under subsections (1), (2) and (4) of this section, may order infringing copies of the works, plates, master tapes, machines, equipment and contrivances in the possession of the alleged offender, to be destroyed or surrendered to the owner of the copyright or dealt with as the court may deem fit, whether the alleged offender is convicted or not.

(6) Where an article is seized by a law enforcement officer in connection with a suspected offence under this Act, a court may on the application of a Copyright Officer or owner of the copyright in the article, order that



the article be deemed to be delivered up to the owner of the copyright or otherwise dealt with as the court may deem fit, notwithstanding that no person has been charged with the suspected offence.

(7) A person who without the consent of the owner of a work in which copyright subsists, communicates to the public or makes the work available to the public by wire or wireless means in such a way that members of the public are able to access the work from a place and at a time individually chosen by them for commercial purposes, is guilty of an offence under this Act and liable on conviction to a fine of not less than N1,000,000.00 or to imprisonment for a term of not less than 5 years or to both.

(8) A person who without the consent of the owner of a copyright does any of the acts specified in Section 13 (1) (a), (b), (c) and (e) of this Act, in respect of a broadcast, is guilty of an offence under this Act and liable on conviction to a fine of not less than N1,000,000.00 or to imprisonment for a term of not less than 5 years or to both.

(9) The Commission shall have power to compound any offence under this Act by accepting such sums of money as it deems fit in the circumstance but not exceeding double of the minimum fine to which the offender would have been liable if he had been convicted of the offence.

#### **45. Aiding and procuring copyright offence.** [Return to Main Menu](#)

Any person who aids or procures another person to commit an offence under this Act is guilty of an offence and shall be liable on conviction to the same punishment as prescribed under this Act for the commission of the main offence.

#### **46. Offence by bodies corporate.** [Return to Main Menu](#)

(1) Where an offence under this Bili is committed by a body corporate, the body corporate and its principal officers are deemed to be guilty of the offence and liable to be proceeded against and punished accordingly, provided that nothing contained in this subsection shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in subsection (1) of this section, where an offence under this Act has been committed by a body corporate and it is proved that the offence was committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of this section -

- (a) "body corporate" includes a firm or other association of persons; and
- (b) "director" in relation to a firm includes a partner in the firm.

(4) Where a body corporate is convicted of an offence under this Act, the court may order that its assets and properties be forfeited unless the body corporate proves to the satisfaction of the court that such assets were not proceeds of the offence for which the body corporate was convicted.

#### **47. Simultaneous actions.** [Return to Main Menu](#)

Notwithstanding the provisions of any law to the contrary, it shall be permissible for both criminal and civil actions to be taken simultaneously in respect of the same infringement under this Act.

#### **48. Duty to keep records.** [Return to Main Menu](#)

(1) A person carrying on the business of production or reproduction of works including publishers, printers, producers, manufacturers and aggregators of works in which copyright subsists shall keep a record of all works dealt with in the course of their business, showing the following -

- (a) name of the author;
- (b) title of the work;
- (c) date of use or production;
- (d) quantity of the work used or produced; and
- (e) any other information as may be prescribed by the Commission from time to time.

(2) Any person who -

(a) fails to keep the record required under this section;

(b) makes or causes to be made a false entry in a record; or

(c) produces, tenders or causes to be produced or tendered as evidence any entry knowing the same to be false, is guilty of an offence under this section and liable on conviction to a fine of not less than N100,000.00 or to imprisonment for a term of not less than 1 year or to both.

(3) A copyright owner or any person having an interest in a work shall, on written demand, be furnished with information relating to the work as contained in the record kept under this section.

#### **49. Anti-piracy measures.** [Return to Main Menu](#)

(1) The Commission shall have powers, with the consent of the Minister, to prescribe any design, label, mark, impression or any other anti-piracy device for use on, in, or in connection with any work in which copyright subsists.

(2) Any person who-

(a) sells, rents, hires; or

(b) offers for sale, rental or hire, any work in contravention of the prescription made pursuant to subsection (1) of this section commits an offence and is liable on conviction to a fine of not less than N500,000.00 or to imprisonment for a term of not less than 3 years or to both.

(3) Any person who without the permission of the Commission -

(a) imports into Nigeria; or

(b) has in his possession, any machine, instrument or other contrivance intended to be used for the production of anti-piracy device, commits an offence and is liable on conviction to a fine of not less than N1,000,000.00 or to imprisonment for a term of not less than 5 years, or to both.

(4) Any person who without the permission of the Commission-

(a) reproduces; or

(b) counterfeits, any anti-piracy device prescribed under this section, commits an offence and is liable on conviction to a fine of not less than N500,000.00 or to imprisonment for a term of not less than 3 years or to both.

(5) Any person who without the permission of the Commission, is in possession of any anti-piracy device prescribed under this section, unless he proves to the satisfaction of the court that he did not know and had no reason to believe that such device was a prescribed anti-piracy device, commits an offence and is liable on conviction to a fine of not less than N100,000.00 or to imprisonment for a term of not less than 1 year or to both.

(6) The Commission shall have power, with the consent of the Minister, to make regulations specifying the conditions necessary to give effect to the purpose of this section.

#### **50. Circumvention of technological protection measures.** [Return to Main Menu](#)

(1) Subject to the provisions of Part II of this Act, no person shall knowingly circumvent a technological protection measure that effectively protects access to a work protected under this Act.

(2) No person shall manufacture, import, sell, offer for sale, provide, or otherwise traffic in any technology, product, service, device, or part thereof, that -

(a) is primarily designed or produced for the purpose of circumventing protection afforded by a technological protection measure that effectively protects a work under this Act; or

(b) has only limited commercially significant purpose or use other than to circumvent protection afforded by a technological measure that protects a work under this Act.

(c) is sold or distributed for use in circumventing a technological protection measure that effectively protects a work under this Act.

(3) In this section-

(a) "technological protection measure" means a technology, device, product or component incorporated into the work which is designed to effectively prevent or inhibit the infringement of any copyright or related

right;

(b) "circumvent a technological protection measure" as used means avoiding, bypassing, removing, deactivating, decrypting or otherwise impairing a technological protection measure;

(c) for the purposes of this section, a technological protection measure effectively protects a work under this Act, if the measure in the ordinary course of its operation, controls access to a work protected under this Act or prevents or restricts acts in respect of the works, which are not authorised by the authors concerned or permitted by law, provided that this section does not extend to measures, which in the normal course of operation, only controls access to a work for non-infringing purposes.

(4) A non-profit library, archive or educational institution, which gains access to a commercially exploited copyright work in order to make a good faith determination only, of whether to acquire a copy of the work for the purpose of engaging in conduct permitted under this Act shall not be in violation of the provisions of this section, provided that a copy of a work to which access has been gained under this subsection may not be -

(a) retained longer than necessary to make the good faith determination; and

(b) used for any other purpose.

(5) The exemption under subsection (4) of this section shall only apply with respect to a work, when an identical copy of that work is not available in another form.

(6) This section does not prohibit any lawfully authorised investigation, protection, information security, intelligence activity, or computer security measures.

(7) The provisions of this section shall not affect the exercise of any exception provided in this Act as it relates to the work in respect of which the technological protection measure is applied.

(8) Notwithstanding the provisions of this section, a person who has lawfully obtained the right to use a copy of a computer programme, may:

(a) circumvent a technological measure that effectively controls access to a particular portion of that programme for the sole purpose of identifying and analysing those elements of the programme; or

(b) be necessary to achieve interoperability of an independently created computer programme with other programmes; or

(c) have not previously been readily available to the person engaging in the circumvention, to the extent that any acts of identification and analysis do not constitute infringement under this Act.

(9) For the purpose of subsection (9) of this section, the term "interoperability" means the ability of computer programmes to exchange information and mutually use the information, which has been exchanged.

### **51. Falsification, alteration or removal of rights management information.** [Return to Main Menu](#)

(1) A person shall not knowingly and with the intent to induce, enable, facilitate, or conceal infringement, provide rights management information that is false.

(2) A person shall not, without the authority of the copyright owner -

(a) knowingly remove or alter any rights management information; or

(b) sell, offer for sale, distribute, import for distribution, broadcast or communicate to the public, works or copies of works, knowing or having reasonable grounds to know that rights management information has been removed or altered without authority, and that it will induce, enable, facilitate, or conceal an infringement of any right under this Act.

(3) In this section, "rights management information" means information which identifies a work or other subject matter, the author, owner or any right in it including information about the terms and conditions of its use and any number or code that represents such information, attached to, or appearing in connection with the communication to the public of a work or subject matter.

### **52. Actions for circumvention of technological protection measures and rights management information.** [Return to Main Menu](#)

(1) A person whose right is violated under sections 50 or 51 of this Act may institute an action before a court



of competent jurisdiction to seek redress for damages, accounts or injunction as are available to a Plaintiff in any similar proceedings in respect of infringement of other proprietary rights.

(2) A court before which an action is brought under this section, may order that any device or product that is in the custody or control of the alleged violator, which the court has reasonable cause to believe was involved in the violation be impounded on such terms as it deems necessary.

(3) Any person who, in the course of business, makes or imports into Nigeria a technology or device for the circumvention of a technological protection measure, knowing that it is likely to be so used, is guilty of an offence and liable on conviction to a fine of not less than N1,000,000.00 or to imprisonment for a term of not less than 5 years or to both

(4) Any person who, in the course of business, sells, distributes, lets for hire, offers or exposes for sale or hire, a technology or device for the circumvention of a technological protection measure, knowing that it is likely to be so used is guilty of an offence and is liable on conviction to a fine of not less than £4500,000.00 or to imprisonment for a term of not less than 3 years or to both.

(5) Any person who, in the course of business, provides a service to another knowing that the service is to enable or assist that other person to circumvent a technological protection measure is guilty of an offence and liable on conviction to a fine of not less than N200,000.00 or to imprisonment for a term of not less than 1 year or to both.

(6) A person who, with the intention of infringing copyright in the work concerned -

(a) removes, erases or alters any rights management information which is attached to or incorporated in or appears with a work; or

(b) sells or lets for hire or offers or exposes for sale or hire any work from which rights management information has been removed, erased or altered, shall be guilty of an offence and liable to a fine not exceeding five thousand dollars or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(7) It shall be a defence, in a prosecution for an offence under subsection (6), for the accused person to prove that the removal, erasure or alteration of the rights management information concerned was reasonably incidental to any use of or dealing with the work concerned which did not amount to an infringement of any copyright in the work.

### **53. Restriction on Importation.** [Return to Main Menu](#)

(1) The owner of copyright in a work may give notice in writing to the Director-General, requesting the Commission to notify the Nigerian Customs Service, during the period specified in the notice, to treat as prohibited goods any work in respect of which the right has been infringed.

(2) The Director-General shall, upon receipt of a notice under subsection (1) of this section or upon reasonable suspicion that an infringing copyright work is being imported, notify the Comptroller-General of Customs or any other officer in charge of the relevant border, furnishing him with information that may be relevant for the purpose of identifying and intercepting the infringing work which is the subject matter of the notice or suspicion.

(3) On receipt of the notice from the Director-General under this section, the Comptroller-General of Customs or such other officer, shall intercept and impound the infringing works and shall permit the Director-General or any person acting on his behalf to inspect the impounded works and take custody of same pending the commencement of any proceedings in accordance with the provisions of this Act. Provided the inspection shall not be invalidated by the absence of the importer.

(4) Any work or material impounded under this section shall not be kept for a period exceeding ten working days, which may be extended by another ten working days, within which the right owner or the Commission shall decide whether to initiate any proceedings in accordance with the provisions of this Act.

(5) Where an infringing work is intercepted or impounded under this section, the ComptrollerGeneral or any other officer in charge of the relevant border shall notify the importer and the right holder or their authorised

representatives, stating the reasons for the action taken.

(6) The period specified in the notice under subsection (1) shall not exceed five years nor extend beyond the end of the period for which the copyright subsists.

(7) Where a notice has been given under subsection (1) of this section, the importation into Nigeria or exportation from Nigeria during the period specified in the notice, except for private and domestic use, of any works to which the notice relates shall be prohibited.

(8) The Director-General or any person acting on his behalf may enter any vehicle, aircraft, ship, vessel, dock, or premises to examine the works which is the subject of the notice under subsection (1) of this section and take further action in accordance with the provisions of this Act.

(9) Any person giving notice under subsection (1) of this section shall be required to undertake to any person, agency or official likely to suffer any damage or loss that may result from any action taken in respect of the notice, where it is found that the notice ought not to have been given.

(10) Without prejudice to subsections (1) and (2) of this section, the Comptroller- General of Customs, or any other officer in charge of a border may, in respect of any imported goods, which he reasonably believes to be infringing copyright, suspend the release of such goods and promptly notify the importer and the right owner of the work.

(11) This section shall apply to works made within or outside Nigeria, which if made or manufactured in Nigeria, would be an infringement under this Act.

(12) The Commission may prescribe the forms, fees and any other requirements for giving notice under this section.

#### **54. Notice to take down.** [Return to Main Menu](#)

(1) The owner of copyright in a work, in respect of which copyright has been infringed, may issue notice of the infringement to the relevant service provider requesting the service provider to take down or disable access to any infringing content or link to the content, hosted on its system or network,

(2) A notification under subsection (1) of this section, shall be in writing and may be transmitted electronically, or by any other means, to the service provider or his designated agent and shall include the following -

(a) a physical or electronic signature of a person authorised to act on behalf of the owner of the right allegedly infringed;

(b) identification of each work claimed to have been infringed;

(c) identification of the infringing material or the subject of infringing activity that is to be removed or access to which is to be disabled, including information sufficient to enable the service provider to locate the material;

(d) information sufficient to enable the service provider to contact the complaining party, such as an electronic mail address, telephone number, or a location address at which the complaining party may be contacted;

(e) a declaration on oath that the complainant believes that the use of the material in the manner complained of is not authorised by the owner of copyright, his agent or the law; and

(f) a statement that the information in the notification is accurate and that the complainant is authorised to act on behalf of the owner of the right allegedly infringed.

#### **55. Take down of infringing content.** [Return to Main Menu](#)

(1) A service provider, upon receiving notice of infringement under section 54 of this Act shall promptly notify the subscriber responsible for the content for which the notice relates informing him of the content of the notice, and shall expeditiously take down or disable access to the infringing content or links to such content hosted on its system or network and, thereafter, notify the owner of the copyright accordingly.

(2) The service provider may resume access to or restore the content or link that has been removed, if he -

(a) receives a written counter notice from the subscriber which he has forwarded to the owner of copyright

immediately on receipt; and

(b) did not receive, within 7 days after forwarding the counter notice, a response from the owner of copyright, indicating that no authorisation has been granted for the subscriber to make the content available.

(3) A service provider shall take effective steps, in accordance with high industry standards, to prevent any content taken down or removed pursuant to the provisions of this Act from being reloaded onto its system or network and if despite taking the steps, the removed content is reloaded onto its system or network, on becoming aware of such content being reloaded, shall promptly remove or disable access to the content without further notice to the subscriber.

(4) A person dissatisfied with a determination or action by the service provider or owner of copyright under this section may refer the matter to the Commission for determination.

(5) A service provider shall not be liable to any person for any action taken under this section in good faith.

(6) A service provider who fails to comply with the provisions of subsections (1) and (2) of this section, shall be liable for such failure as a breach of statutory duty and for infringement of the content which is the subject matter of the notice under section 54 to the same extent as the person responsible for placing the content on the system or network.

#### **56. Procedure for suspension of accounts of.** [Return to Main Menu](#)

(1) A service provider, upon receiving repeated notifications of infringements for a particular account, shall -

(a) promptly send a warning to the subscriber that has been identified, informing him that another notification will lead to suspension of the account and requiring the subscriber to confirm the receipt of the warning; and

(b) after a second notification relating to the same account, where no challenge is pending pursuant to subsection (2) of this section, shall suspend the account for a period of not less than 1 month.

(2) A subscriber who receives a warning notice may challenge the notice on the grounds of mistake or misidentification -

(a) within 10 days from the date of the warning, send a signed counter-notice to the service provider, furnishing his full contact details and the factual basis of his belief that his account has been misidentified or that the use of the content was not infringing; or

(b) If the basis for the challenge under paragraph (a) of this subsection cannot be resolved within 10 days of the receipt of the counter-notice, the matter shall be referred to the Commission to determine the validity of the challenge.

(3) A service provider acting in good faith in suspending the account of a subscriber, relying on the information contained in a notification referred to in subsection (2) of this section, shall not be liable to any person for any claim based on the suspension.

#### **57. Misrepresentation.** [Return to Main Menu](#)

A person who knowingly misrepresents under this section, that -

(a) material or activity is infringing; or

(b) material or activity was removed or disabled by mistake or misidentification, is liable in damages for injuries suffered by the person as a result of the service provider relying on such misrepresentation.

#### **58. Information domiciled In systems or networks at direction of users.** [Return to Main Menu](#)

Except as otherwise provided in this Act, a service provider shall not be liable for monetary relief for infringement of copyright or other subject matter by reason of the storage at the direction of a user of material that resides on a system or network controlled or operated by or for the service provider, if the service provider-

(a) does not have actual knowledge that the material or an activity using the material on the system or network is infringing or in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent or upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

(b) does not receive a financial benefit directly or indirectly attributable to the infringing activity, where the service provider has the right and ability to control such activity;

(c) on notification of infringement as provided for in section 54 of this Act, responds expeditiously to remove or disable access to the material that is claimed to be infringing or to be the subject of infringing activity; and

(d) complies with the procedure for suspension of accounts of repeat infringers as provided in section 54 of this Act.

**59. Information location tools.** [Return to Main Menu](#)

Except as otherwise provided in this Act, a service provider shall not be liable for monetary relief for infringement of copyright or other subject matter by reason of the provider referring or linking users to an online location containing infringing material or infringing activity, by using information location tools, including a directory, index, reference, pointer, or hypertext link, if the service provider-

(a) does not have actual knowledge that the material or activity is infringing; or in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent or upon obtaining such knowledge or awareness, acts expeditiously to remove or disable access to the material;

(b) does not receive, financial benefit directly attributable to the infringing activity, where the service provider has the right and ability to control such activity; and

(c) on notification of infringement under section 54 of this Act, responds expeditiously to remove or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity.

**60. Identification of infringer.** [Return to Main Menu](#)

(1) An owner of copyright or other subject matter under this Act or his agent may apply to the court for an order to a service provider to identify an alleged infringer in accordance with this section.

(2) The application referred to in subsection (1) of this section shall be accompanied with a -

(a) copy of the notification described in section 54 of this Act; and

(b) sworn declaration to the effect that the purpose for which the order is sought is to obtain the identity of an alleged infringer and that such information will only be used for the purpose of protecting rights under this Act.

(3) The court may issue an order to the service provider to expeditiously disclose to the owner of copyright or other subject matter under this Act or a person authorised by the owner, information sufficient to identify the alleged infringer of the material described in the notification to the extent that the information is available to the service provider.

**61. Blocking access to online content.** [Return to Main Menu](#)

Notwithstanding the provisions of any other law, the Commission may, directly or with the assistance of any other person block or disable access to any content, link or website hosted on a system or network, which it reasonably believes to infringe copyright under this Act.

**62. Application of this Part.** [Return to Main Menu](#)

(1) The limitations to liability under this Part shall apply only to -

(a) the neutral, automatic and passive activities of a service provider; and

(b) service providers who -

i. do not take an active role, intervene or participate in the making available of content; and

ii. designate an agent or an address, on their website, to receive notices under this Part.

(2) The provisions of this Part shall be without prejudice to the powers of the court or any administrative authority to require or direct the service provider to terminate or prevent an infringement.

**63. Right of performers.** [Return to Main Menu](#)

(1) A performer shall have the exclusive right to control, in relation to his performance, the following acts -

(a) fixation of his unfixed performance;

(b) reproduction of a fixation of his performance, in any manner or form, if the -

(i) original fixation, other than a fixation excluded by section 68 from the necessity for obtaining the consent of the performer, was itself made without his consent; or

(ii) reproduction is made for purposes other than those in respect of which such performer gave his consent to the making of the original fixation or of a reproduction thereof; or

(iii) original fixation was made in accordance with the provisions of section 68 and the reproduction is made

for purposes not covered by those provisions;

- (c) distribution to the public by sale or other transfer of ownership, of a fixation of his performance, or copies thereof, that have not been subject to a distribution authorised by the performer;
- (d) broadcasting or communicating to the public an unfixed performance of such performer, unless the performance used in the broadcast or communication to the public is itself a broadcast performance;
- (e) renting or lending 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; and
- (f) making available to the public of his fixed performance by wire or wireless means, in a way that members of the public may access them from a place or at a time individually chosen by them.

(2) In this Part, "performance" includes a -

- (a) dramatic performance, which includes dance and mime;
- (b) musical performance; and
- (c) reading or recitation of literary act or any similar presentation which is a live performance given by one or more individuals.

(3) In this part, "performer" includes actors, singers, musicians, dancers, and other persons, who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore irrespective of whether the work was fixed or only fixed during performance.

#### **64. Protected performance.** [Return to Main Menu](#)

(1) The rights granted to a performer under this Act shall apply in respect of any performance if-

- (a) on the date of the performance, at least one of the performers is a citizen of, or habitually resident in, Nigeria, or
- (b) the performance takes place or is first fixed in Nigeria or in a country which is a party to an obligation in a treaty or other international agreement to which Nigeria is party.

(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 Nigeria is also a party, a certification from the Commission to that effect shall be conclusive proof of that fact.

#### **65. Presumption of consent.** [Return to Main Menu](#)

In the absence of express agreement to the contrary, a performer's consent to the broadcasting of his performance shall be deemed to include his consent to an authorised rebroadcasting of his performance, the fixation of his performance for broadcasting purposes and the reproduction for broadcasting purposes of such fixation.

#### **66. Moral rights of performers.** [Return to Main Menu](#)

(1) A performer shall have the right to -

- (a) be identified as the performer in connection with any use of his performance or the fixation thereof; and
- (b) object, and prevent any distortion, mutilation or other modification of his performance or the fixation of the performance, and any other derogatory action in relation thereto where such action will be or is prejudicial to his honour or reputation.

(2) The rights referred to in subsection (1) of this section, shall not be transmissible during the life of the performer, but upon his death, shall be transmissible by testamentary disposition or by operation of law.

(3) The rights conferred by this section shall subsist for the duration of the performer's right.

#### **67. Collective performances.** [Return to Main Menu](#)

Where several performers as a group take part in the same performance, it shall suffice, if the consent required under section 65 of this Act, is given by any person in charge of the group and any payment for the use of the performance may, unless otherwise stipulated, be made to such person and, subject to any contract between them, be divided equally among all the performers.

#### **68. Exceptions to performer's rights.** [Return to Main Menu](#)

(1) Where a performer consents to the inclusion of his performance in a visual or audio-visual fixation,



section 65 of this Act shall cease to apply in respect of the performance.

(2) The provisions of Part I! of this Act, shall apply, with necessary modifications, in respect of performances.

(3) Notwithstanding subsection (2) of this section, a performance, a fixation of a performance or a reproduction of such a fixation may be used without the consent required under section 63 of this Act, if it is for the purpose of-

(a) demonstration in good faith of radio or television receivers or recording or playback equipment to clients by a dealer in those receivers or that equipment on his premises;

(b) reproduction of short extracts from an object of performer's rights in reports on current events, to the extent justified by that purpose;

(c) research or private study of an object of performer's rights kept in publicly accessible libraries, educational establishments, museums or archives, on the premises of the said institutions;

(d) reproduction for the benefit of people with a disability, which is directly related to the disability and of a non-commercial nature, to the extent required by the disability; and

(e) making of an ephemeral recording of an object of performer's rights by broadcasting organizations by means of their own facilities and for their own broadcasts; Provided that

(i) the recordings may be preserved for a period not exceeding thirty days and must be erased after their use for broadcasting; and

(ii) the recordings of an exceptional documentary character may be transferred to designated archives for preservation;

#### **69. Transfer of performer's rights in audiovisual fixations.** [Return to Main Menu](#)

(1) The provisions of section 30 of this Act shall apply to performer's rights subject to any modifications as may be necessary.

(2) A performer who has authorised the fixation of his performance in an audio-visual work shall, in the absence of any agreement to the contrary, be deemed to have granted to the person by whom the arrangements for such fixation is made, the exclusive rights under section 63 (1) of this Act.

(3) Notwithstanding the provision of subsection (2) of this section, a performer shall be entitled to share in any payment received by the person who arranges for the fixation of the audiovisual work in respect of the broadcast or communication to the public of the fixed performance.

#### **70. Duration of performer's right.** [Return to Main Menu](#)

The right conferred by section 63 of this Act in relation to a performance shall subsist for a period of fifty years commencing from the end of the year when the performance was first fixed.

#### **71. Infringement of performer's right.** [Return to Main Menu](#)

Performer's right is infringed by a person who, without the performer's consent or authorization -

(a) does or causes any person to do any of the acts provided in section 63 of this Act;

(b) broadcasts a substantial part of the live performance by means of a recording, which the person knows or has reason to believe was made without the performer's consent;

(c) imports for reasons other than his private or domestic use a recording of a performer's work which is an infringing recording; or

(d) in the course of trade or business, sells or lets for hire, offers, distributes or displays for sale or hire, a recording of a performer's work which is an infringing recording.

#### **72. Action for Infringement of performer's right.** [Return to Main Menu](#)

(1) An infringement of a right protected under sections 63 and 66 of this Act, shall be actionable as a breach of statutory duty and the person having the right shall be entitled to damages, injunction, and account of profits or conversion.

(2) Where a person, in the course of trade or business, has in his possession, custody or control, an unauthorised recording of a performance, the person having the performer's right or recording right in relation to the performance, shall be entitled to an order of the court that the recording be forfeited and delivered up to him.

### **73. Criminal liability in respect of infringement of performer's right.** [Return to Main Menu](#)

- (1) A person who, without the consent or authorization of the performer, does any of the acts set out in section 71 shall, unless he proves to the satisfaction of the court that he did not know that his conduct was an infringement of the performer's right, be guilty of an offence and shall be liable on conviction in the case of-
- (a) an individual, to a fine of not less than N100,000.00 or to imprisonment for a term of not less than 1 year or to both; and
  - (b) a body corporate, to a fine of not less than N2,000,000.00.
- (2) A court before which an offence under this section is tried may order that the recording or any other part thereof be delivered to the person entitled to the performer's right.

### **74. Protection of expressions of folklore.** [Return to Main Menu](#)

- (1) Expressions of folklore are protected against -
- (a) reproduction;
  - (b) communication to the public by performance, broadcasting, distribution by cable or other means; and
  - (c) adaptations, translations and other transformations, when such expressions are made either for commercial purpose or outside their traditional or customary context.
- (2) The right conferred by subsection (1) of this section shall 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 acknowledgment of the title of the work and its source;
  - (b) the utilisation for purposes of education;
  - (c) utilisation by way of illustration in an original work of an author;
  - (d) the borrowing of expressions of folklore for creating an original work of an author; provided that the extent of such utilisation is compatible with fair practice; or
  - (e) the incidental utilisation of expressions of folklore.
- (3) In all printed publications or any communication to the public of any identifiable expression of folklore, its source shall be indicated in an appropriate manner, by stating the community or place from where the expression utilised has been derived.
- (4) The right to authorise acts referred to in subsection (1) of this section shall vest in the Commission.
- (5) For the purpose of this section, "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) folklore, folk poetry, and folk riddles;
  - (b) folk songs and instrumental folk music;
  - (c) folk dances and folk plays; and
  - (d) productions of folk arts in particular, drawings, paintings, carvings; sculptures, pottery, terracotta, mosaic, woodwork, metal ware, jewellery, handicrafts, costumes, and indigenous textiles.

### **75. Infringement of expressions of folklore.** [Return to Main Menu](#)

Any person who, without the consent of the Commission, uses an expression of folklore in a manner not permitted by section 73 of this Act, is in breach of statutory duty and shall be liable to the Commission in damages, injunctions and any other remedies as the court may deem fit to award in the circumstance.

### **76. Criminal liability.** [Return to Main Menu](#)

- (1) Any person who intentionally or for commercial purpose-
- (a) does any of the acts set out in section 73 of this Act without the consent or authorisation of the Commission; or
  - (b) misrepresents the source of an expression of folklore; or
  - (c) 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 under this Act.

(2) A person convicted of an offence under subsection (1) of this section is liable on conviction in the case of-

- (a) an individual, to a fine of not less than N100,000.00 or to imprisonment for a term of not less than 1 year or to both; and
- (b) a body corporate, to a fine of not less than N2,000,000.00.

(3) A court before, which an offence under this section is tried, may order that the infringing or offending article be delivered to the Commission.

#### **77. Establishment of the Nigerian Copyright Commission.** [Return to Main Menu](#)

(1) There is established a body to be known as the Nigerian Copyright Commission (in this Act referred to as “the Commission”).

(2) The Commission -

- (a) shall be a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold or dispose any interest in property; and
- (d) may sue and be sued in its corporate name.

#### **78. Functions and powers of the Commission.** [Return to Main Menu](#)

(1) Subject to the provisions of this Act, the Commission shall -

- (a) be responsible for all matters relating to copyright, including administration, regulation and enforcement in Nigeria;
- (b) monitor and advise Government on Nigeria's position in relation to bilateral and multilateral agreements between Nigeria and any other country;
- (c) investigate and redress cases of infringement of copyright and settle disputes of copyright, where those disputes have not been specifically reserved for settlement under this Act;
- (d) enlighten and inform the public on matters relating to copyright;
- (e) create and maintain a register and database relating to copyright works;
- (f) provide access to documents and information relating to any copyright kept or maintained by the Commission;
- (g) be responsible for such other matters as relate to copyright in Nigeria; and
- (h) exercise any other functions and duties as may be necessary for the attainment of the object of this Act.

(2) Subject to the provisions of this Act, the Commission shall have powers to -

- (a) prosecute, conduct or defend before a court any charge, information, complaint or other proceedings arising under this Act;
- (b) levy such charges or fees as may be reasonable for services and facilities provided by the Commission;
- (c) regulate and implement measures to promote protection of copyright; and
- (d) regulate the conduct of collective management of rights; and
- (e) exercise such other powers as are incidental to any of its objects under this Act.

(3) In exercising its powers of enforcement and compliance, the Commission shall have power to —

- (a) demand-for evidence of compliance from persons, public or private institutions and organisations;
- (b) caution a non-compliant person or entity in writing;
- (c) sanction a non-compliant person or entity by the imposition of administrative fines;
- (d) institute criminal-proceedings against a non-compliant person or entity;
- (e) institute civil actions against the defaulting person or entity; and
- (f) obtain a Court warrant or Order to seize or detain any book, record, document or other information storage system or database which use does not conform with the provisions of the Act or relevant Regulations made pursuant to this Act.

#### **79. Establishment and membership of the Governing Board.** [Return to Main Menu](#)

(1) The Commission shall have a Governing Board (in this Act referred to as "the Board") which shall consist of the following members —

- (a) Chairman to be a person knowledgeable in copyright matters, to be appointed by the President on the recommendation of the Minister;
- (b) the Director-General of the Commission;



- (c) one representative of the Federal Ministry Justice;
- (d) one representative of the Federal Ministry responsible for Culture;
- (e) one representative of the Nigeria Police Force, not below the rank of a Commissioner of Police;
- (f) one representative of the Nigeria Customs Service, not below the rank of a Comptroller of Customs;

(g) six other persons to be appointed by the Minister who shall represent as far as possible the authors in the following areas -

- (i) literary works;
- (ii) artistic works;
- (iii) musical works;
- (iv) audiovisual works;
- (v) sound recordings; and
- (vi) broadcasts.

(2) The representatives of the Ministries shall be officers not below the rank of a Director.

(3) The supplementary provisions contained in the Schedule to this Act, shall have effect with respect to the proceedings of the Board and other matters men mentioned therein.

#### **80. Tenure of Office.** [Return to Main Menu](#)

(1) The Chairman and other members of the Board who are not ex-officio members shall hold office -

- (a) for a period of 4 years in the first instance and may be re-appointed for a further period of 4 years and no more; and
- (b) on such terms and conditions as may be specified in their letters of appointment.

(2) Notwithstanding the provisions of section 78 of this Act, the Chairman or any member of the Board may at any time be removed from office by the President for inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause or misconduct.

#### **81. Cessation of membership.** [Return to Main Menu](#)

Notwithstanding the provisions of section 79 of this Act, a member of the Board shall cease to hold office as a member, where -

- (a) he resigns his appointment as a member of the Board by notice under his hand addressed to the President of the Federal Republic of Nigeria; or
- (b) he becomes of unsound mind; or
- (c) he becomes bankrupt; or
- (d) he is convicted of a felony or any other offence involving dishonesty or corruption; or
- (e) he becomes incapable of carrying on the functions of his office either arising from an infirmity of mind or body; or
- (f) the President of the Federal Republic of Nigeria is satisfied that it is not in the interest of the Commission or in the interest of the public for the person to continue in office; or
- (g) he has been found guilty under the Code of Conduct or serious misconduct in relation to his duties; or
- (h) in the case of a person who becomes a member by virtue of the office he occupies cease to hold such office.

#### **82. Removal of the Chairman or any member of the Governing Board of the Commission.** [Return to Main Menu](#)

(1) Where it appears that the Chairman or any member of the Board, other than an ex-officio member, should be removed from office on the grounds of misconduct or inability to perform the functions of his office, the Board shall make recommendation through the Minister to the President for approval.

(2) Where the President, after making such inquiries as he considers necessary and approves the recommendation made through the Minister by the Board, the Secretary to the Government of the Federation shall, in writing declare the position of such member vacant.

(3) Notwithstanding the provision of subsection (1) of this section, the President may remove any member of the Governing Board, where he is satisfied that it is in the interest of the Commission and the public to do so.

### **83. Appointment of the Director General and other staff of the Commission.** [Return to Main Menu](#)

- (1) There shall be for the Commission, a Director-General who shall be appointed by the President on the recommendation of the Minister.
- (2) A person to be appointed as the Director General shall be a person with proven knowledge of copyright with at least 15 years' cognate experience in copyright practice and administration.
- (3) The Director-General shall be responsible for the day-to-day administration of the Commission.

### **84. Removal of the Director General, Chairman and other Members of the Governing Board** **Appointment of other staff of the Commission.** [Return to Main Menu](#)

The Director General, Chairman or any member of the Governing Board may be removed from office by the President on grounds of misconduct or inability to perform the functions of his office or where the President is satisfied that it is in the interest of the Commission and the public to do so.

### **85. Short title.** [Return to Main Menu](#)

The Commission shall have power—

- (a) to appoint such other staff as it may determine;
- (b) to pay its staff such remuneration and allowances as it may, from time to time, determine;
- (c) as regards any staff in whose case it decides so to do, to pay to or in respect of such staff such pensions and gratuities as are payable to persons of equivalent grade in the public service of the Federation.

### **86. Copyright Officers.** [Return to Main Menu](#)

- (1) The Commission may appoint Copyright Officers as may be necessary for the effective enforcement of the provisions of this Act.
- (2) A Copyright Officer shall, without a warrant have the power to:
  - (a) enter, inspect and examine at any reasonable time any building or premises which he reasonably suspects is being used for any activity which is an infringement of copyright under this Act;
  - (b) arrest any person who he reasonably believes to have committed an offence under this Act;
  - (c) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are complied with;
  - (d) demand the production of any record required to be kept under section 47 of this Act and to inspect, examine or copy such record;
  - (e) demand information and access any database relating to copyright;
  - (f) require any person who, he finds in any building or premises to give such information as it is in his power to give in relation to any purpose specified in this Act and seize, or take into custody any infringing copy, contrivance, material, equipment used or suspected to be used in committing an offence under this Act;
  - (g) seal up premises and carry out any examination, test or analysis within or outside the premises as may be required to give effect to any of the provisions of this Act and may capture any image where such examination, test or analysis is within the premises; and
  - (h) exercise such other powers as are necessary for the effective discharge of his duties or as the Commission may delegate.
- (3) A person who -
  - (a) obstructs, hinders; prevents, or assaults a Copyright Officer in the performance of any function or the exercise of any power under this section;
  - (b) does anything which impedes or is intended to impede the sealing up of premises or removal of books or documents or any other article for the purpose of investigation of any contravention of the provisions of this Act or Regulations made pursuant to this Act;
  - (c) does anything intended to prevent the procuring or giving of evidence in connection with the prosecution for any breach of the provisions of this Act; or
  - (d) prevents the arrest of any person by a Copyright Officer or rescues any person so arrested, commits an offence and shall be liable on conviction to a fine to a fine not exceeding N100,000.00 or to imprisonment for a term not less than 1 year or to both.

(4) A Copyright Officer shall have the powers, rights and privileges of a police officer as defined under the Police Act or any other relevant enactment relating to investigation and prosecution of a criminal matter.

### **87. Registration of Works.** [Return to Main Menu](#)

(1) The Commission shall establish and maintain a Register of Works (in this Act referred to as “the Register”).

(2) A person may apply in the prescribed manner to the Commission to register a work that is eligible for copyright under this Act.

(3) Pursuant to the provisions of subsection (2) of this section, the Commission may enter the particulars of the work in the Register, provided that the registration of a work does not confer copyright.

(4) The Register shall be prima facie evidence of the work and the particulars entered in the register, and any extract from the register, certified by the Commission shall be admissible in evidence in all proceedings without further proof or production of the original of the matter certified.

(5) The Commission shall have power to reproduce and store all or any part of a registered work electronically or in any other format.

(6) The Commission may, with the approval of the Minister, make regulations for the purpose of this Part.

(7) Any person who knowingly makes or causes to be made, a false entry in the Register, shall be guilty of an offence under this section and be liable on conviction to a fine of not less than N100,000.00 or to imprisonment for a term of not less than 1 year or to both.

### **88. Collective Management Organisations.** [Return to Main Menu](#)

(1) A Collective Management Organisation (in this section referred to as "a CMO") formed by rights owners may apply to the Commission for approval to operate in respect of any one or more categories of works.

(2) The Commission may approve a CMO, if it is satisfied that-

(a) it is incorporated as a company limited by guarantee;

(b) its objects are to negotiate, grant copyright licences, collect royalties on behalf of copyright owners and distribute such royalties;

(c) it represents a substantial number of owners of copyright in any category of works protected by this Act; and

(d) it complies with the terms and conditions prescribed by regulations made by the Commission under this Act.

(3) The Commission shall not approve another CMO in respect of any category of copyright works, if it is satisfied that an existing approved CMO adequately protects the interests of copyright owners in that categories of works.

(4) It shall be unlawful for any person or group of persons, however described, to purport to perform the duties of a CMO without the approval of the Commission as required under this Act.

(5) Any person who contravenes the provisions of subsection (4) of this section shall be guilty of an offence and liable on conviction in the case of-

(a) an individual, to a fine of not less than N1,000,000.00 or to imprisonment for a term of not less than 5 years or to both.

(b) a body corporate, to a fine of not less than 1X15,000,000.00.

(6) The Commission shall have the power to -

(a) suspend or revoke the approval given under subsection (2);

(b) review and approve tariffs as may be determined by a CMO;

(c) make regulations specifying the conditions necessary for the effective management of CMOs and to give effect to the purposes of this section.

(7) For the purposes of this section - "Collective Management Organization" means an organisation representing copyright owners, which has as its principal objectives the negotiating and granting of licences, collecting and distributing of royalties in respect of copyright works; "group of persons" includes a body corporate or entity. "owners of copyright" includes owners of performer's rights;

(8) The Commission may, where it finds it expedient, assist in the establishment of a CMO for any category of copyright works.

(9) Notwithstanding the provisions of this Act or any other law, a CMO may issue licences permitting the use of works of owners of copyright who are not members of the CMO, provided that-

- (a) such works are of the same category as works for which it is approved to issue licences;
- (b) the owners of copyright in such works are not otherwise represented by any other CMO;
- (c) there is not more than one CMO approved to operate in the particular category of works concerned;
- (d) the owners of copyright in such works have not by written notice to the CMO, opted out of collective the management of their rights; and
- (e) the CMO does not discriminate against such owners in terms of the tariffs for the use of their works and the payment of royalties to such owners.

**89. Levy on copyright material.** [Return to Main Menu](#)

(1) There shall be paid a levy on any material used or capable of being used to infringe copyright in a work.

(2) The levy payable under subsection (1) of this section and any exemptions from such payment shall be as may be prescribed by the Minister, from time to time, by an Order and different levies may be imposed on different categories of material.

(3) The levy payable under this section shall, subject to approved deductions, be paid into the Fund of the Commission and the Commission shall have power to disburse the funds to approved Collective Management or other representatives of right owners, in accordance with the regulations made by the Commission.

(4) The Minister shall have power to exempt any class of materials from the repayment of any levy.

(5) In this section, "material" includes any object, equipment, machine, contrivances or any other device, including electronic or digital systems, used or capable of being used to infringe copyright in a work.

**90. Dispute Resolution Panel.** [Return to Main Menu](#)

(1) The Commission may constitute a Dispute Resolution Panel (in this Act referred to as "the Panel") to resolve any dispute arising from -

- (a) payment of royalties;
- (b) terms of a licence; or
- (c) any matter in respect of which a determination by the Commission is required under this Act.

(2) A Panel established under subsection (1) of this section, shall comprise of three persons knowledgeable in copyright matters, one of whom shall be designated as the chairman.

(3) A person shall not be appointed as a member of the Panel if he has any interest in any matter which is required to be determined by the Panel.

(4) Where a proceeding before a Panel under this section has commenced and a member of the Panel is unable to continue as a member, the Panel shall remain duly constituted for the purpose of that proceeding with the remaining two members.

(5) The Commission shall with the approval of the Minister, make regulations providing for the procedure and operations of the Panel.

(6) Any person dissatisfied with a decision of the Panel may apply to the Court for a review of the decision.

**91. Establishment of Fund for the Commission.** [Return to Main Menu](#)

(1) The Commission shall establish and maintain a Fund which shall be applied towards the promotion of the objectives specified in this Act.

- (2) There shall be paid and credited to the fund established in pursuance of subsection (1) of this section -
- (a) government statutory allocation and grant as may be provided by the Government of the Federation or appropriated by the National Assembly for payment into the Fund of the Commission;
  - (b) such monies as may, from time to time, be lent or granted to the Commission by the Federal Government, State or Local Government;
  - (c) all charges, dues, fees or amount recovered by the Commission and dividends from investment;
  - (d) deductions as may be approved under section 89 of this Act;
  - (e) all monies raised for the general purpose of the Commission with the approval of the Board; and
  - (f) foreign aids and assistance from bilateral and multilateral Agencies.

**92. Expenditure of the Commission.** [Return to Main Menu](#)

The Commission shall apply the funds established under this Act to -

- (a) execute its statutory functions under this Act and development activities in the capital project of the Commission;
- (b) pay approved allowances and expenses of members of the Board;
- (c) pay salaries, allowances and other benefits of officers of the Commission;
- (d) maintain properties acquired or vested in the Commission; and
- (e) undertake any other activity in connection with the object of this Act.

**93. Annual estimates, accounts and audit:** [Return to Main Menu](#)

(1) The Commission shall not later than 30th September of each year, submit to the Board for approval its estimates of income and expenditure for the next financial year.

(2) The Commission shall:

- (a) keep proper records of all accounts of its income and expenditure; and
- (b) prepare statement of account in respect of each financial year.

(3) The Commission shall prepare and submit its accounts to auditors in accordance with laid down guidelines and rules.

**94. Annual Report.** [Return to Main Menu](#)

The Commission shall submit its annual report to the Board, which shall include -

- (a) information on the activities of the Commission for the previous year; and
- (b) a copy of the audited accounts of the Commission for the previous year.

**95. Borrowing and investment power of the Commission.** [Return to Main Menu](#)

(1) The Commission may, in accordance with the financial regulations prescribed by government, borrow by way of loan or overdraft from any source, any specified amount of money required by the Commission for its obligations and functions under this Act.

(2) The Commission may, subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest any of its funds in line with the financial regulations prescribed by government.

**96. Power to accept gifts.** [Return to Main Menu](#)

(1) The Commission may accept gift of land, money or other property upon such terms and conditions, if any, as may be specified by the person or organization making the gift.

(2) The Commission shall not accept any gift where the conditions attached by the person or organization making the gift are inconsistent with the functions and objectives of the Committee.

(3) A gift donated to the Commission or project of the Commission shall be made directly to the Commission and shall be utilized only for the purpose.

**97. Regulations.** [Return to Main Menu](#)

- (1) The Commission may with the consent of the Minister, make Regulations -
- (a) specifying the conditions necessary for the operation of a business involving the production, publication, public exhibition, distribution, sale, hiring, rental, storage, warehousing or any other dealings with a work in which copyright subsists;
  - (b) prescribing any fees for any transactions, or fines for any act or non-compliance arising from the provisions of this Act or a regulations made pursuant to this Act; and
  - (c) for the effective implementation of the provisions of this Act.

(2) The contravention of any regulation order or any other instrument made under the provisions of this Act, or non-compliance with any administrative sanctions imposed under any directive or regulation issued by the Commission shall constitute an offence and shall be punishable, in the case of first offence, with a fine of not less than N100, 000. 00 and in the case of a repeat offence, with a fine of not less than N500, 000. 00 or imprisonment for a term of not less than 6 months.

#### **98. Application of the Pensions Reform Act.** [Return to Main Menu](#)

- (1) Service in the employment of the Commission shall be the approved service under the Pensions Reform Act and accordingly, employees of the Commission shall, in respect of their services be entitled to pension and other retirement benefits as are prescribed in the Act.
- (2) Notwithstanding the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on terms, which preclude the grant of a pension and gratuity in respect of that office.
- (3) For the purpose of the application of the Pensions Reform Act, any power exercisable thereunder by the President or authority other than the Federal Government (not being the power to make Regulations), shall be vested in and exercisable by the Commission.
- (4) Subject to subsection (2) of this Section, the Pensions Reform Act, shall in its application of subsection (3) of this section, have effect as if, the office were in the public service of the Federation within the meaning of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

#### **99. Power of the Minister to give directives.** [Return to Main Menu](#)

The Minister may give to the Commission, directives of a general character relating to the policies and functions of the Commission and it shall be the duty of the Commission to comply with such directives.

#### **100. Restriction on execution against property of the Commission.** [Return to Main Menu](#)

- (1) In any action or suit against the Commission, no execution or attachment of process shall be issued against the Commission, unless prior to such execution, not less than three months' notice of the intention to execute or attach has been given to the Commission.
- (2) Any sum of money, which by the judgment of any court, has been awarded against the Commission shall, subject to any direction given by the court, where notice of appeal against the judgment has been given, be paid from the fund of the Commission.

#### **101. Indemnity.** [Return to Main Menu](#)

Members of the Board, Director-General or staff of the Commission shall be indemnified out of the assets of the Commission against any proceedings brought against him in his capacity as a member of the Board, Director-General, officer or employee of the Commission, where the act complained of is not ultra vires his power.

#### **102. Avoidance of Conflict of Interest.** [Return to Main Menu](#)

- A Board member, the Director-General or any other officer of the Commission shall -
- (a) treat as confidential any information which came to his knowledge in the exercise of his power or is obtained by him in the performance of his duties under this Act;
  - (b) not, for his personal gain, make use of any information which came to his knowledge in the exercise of this power or is obtained by him in the ordinary course of his duty as a member of the Board, Director-General or officer of the Commission; or



### **103. Jurisdiction.** [Return to Main Menu](#)

The Federal High Court shall have exclusive jurisdiction for the trial of offences and civil actions arising from this Act.

### **104. Limitation on suit against the Commission, etc.** [Return to Main Menu](#)

- (1) Notwithstanding anything in any other enactment, no suit against the Commission, a member of the Governing Board or any staff of the Commission, for an act done -
- (a) in pursuance or execution of his duties under this Act or any other enactment or law; or
  - (b) in respect of any alleged neglect or default in the execution of this Act or any other enactment, shall lie or be instituted in any court unless the suit is commenced within twelve months next after the act, neglect or default complained of or where the damage or injury continues within twelve months next after the damage or injury ceases.
- (2) No suit shall be commenced against the Commission or any member of staff of the Commission before the expiration of a period of three months after written notice of intention to commence the suit is served upon the Commission by the intending plaintiff or his agent.
- (3) The notice referred to in subsection (2) of this section shall clearly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

### **105. Service of documents.** [Return to Main Menu](#)

A notice, summons, or other document required or authorised to be served on the Commission under the provisions of this Act or any other enactment or law may be served by delivering same to the Director-General of the Commission or by sending it by registered mail or courier addressed to the Director-General at the Head Office of the Commission.

### **106. Repeals and savings provisions.** [Return to Main Menu](#)

- (1) The Copyright Act 1988 as amended is hereby repealed.
- (2) Sections 491, 492 and 493 of the First Schedule to the Criminal Code Act and sections 426 and 427 of the Penal Code are hereby repealed.
- (3) Without prejudice to section 6 of the Interpretation Act, the repeal of the enactment specified in subsection (1) of this section, shall not affect anything done under or pursuant to the enactment.

### **107. Transitional provisions.** [Return to Main Menu](#)

- (1) Subject to the provisions of this Act, the Director-General of the Commission under the repealed Act is deemed to continue to serve his tenure under this Act.
- (2) Any person who immediately before the commencement of this Act was a staff of the Nigerian Copyright Commission established under the repealed Act shall continue in office and be deemed to have been appointed under this Act for purposes of pension.
- (3) Properties held immediately before the commencement date of this Act on behalf of the Nigerian Copyright Commission by any person shall, by virtue of this Act, be vested in the Commission established under this Act.
- (4) The Commission established under this Act shall be subject to all the obligations and liabilities to which the former Nigerian Copyright Commission was subject immediately before the commencement of this Act and all other persons shall have the same rights, powers and remedies against the Commission established by this Act as they had against the Commission immediately before the commencement of this Act.
- (5) Any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the Commission established under the repealed Act in respect of any right, interest, obligation or liability of the Commission may be continued or commenced, as the case may be, and any determination of a court of law, tribunal or other commission or person may be forced by or against the Commission established by this Act to the same extent that such proceeding, cause of action or

determination might have been continued, commenced or enforced by or against the Commission as if this Act had not been made.

- (6) This Act applies in relation to works made before the commencement of this Act as it applies in relation to works made after the commencement of this Act.
- (7) Proceedings for infringement of Copyright Act 1988, as amended may be taken, notwithstanding that the alleged infringement occurred before the commencement of this Act.
- (8) Where an act done before the commencement of this Act was then an infringement but is not an infringement under this Act, proceedings in respect of the act may be taken as if this Act had not been made.
- (9) Contracts for the licensing of any act in respect of copyright that were effective immediately before the commencement of this Act, shall continue in force as if they related to the corresponding copyright under this Act.
- (10) A notice given under section 44 of the repealed Act and not withdrawn before the commencement of this Act shall continue in force as if it had been given under section 84 of this Act.
- (11) Any subsidiary legislation which was in force immediately before the commencement of this Act shall remain in force, subject to any necessary modifications, as if it had been made under this Act, and may be added to, amended, revoked or varied accordingly.

#### **108. Interpretation.** [Return to Main Menu](#)

(1) In this Act- "adaptation" means the modification of a pre-existing work from one type of work to another or altering a work within the same type to make it suitable for different conditions of exploitation and may also involve altering the composition of the work; "artistic work" includes, irrespective of artistic quality, any of the following works or similar works -

- (a) paintings, drawings, etchings, lithographs, woodcuts, engravings and prints;
- (b) maps, plans and diagrams;
- (c) works of sculpture;
- (d) photographs not comprised in an audiovisual work;
- (e) works of architecture in the form of building models; and

(f) works of artistic craftsmanship, including pictorial woven tissues and articles of applied handicraft; "audiovisual work" means the aggregate of a series of related visual images with or without sound, which is capable of being shown as a moving picture by means of a mechanical, electronic or other device and irrespective of the nature of the material on which the visual images and sounds are carried and includes the sound track, but does not include a broadcast; "author" in the case of-

- (i) audiovisual work means the person by whom the arrangements for the making of the audiovisual work were made, unless the parties to the making of the audiovisual work, provide otherwise by contract between themselves;
- (ii) collective work, means the person responsible for the selection and arrangement of the collection;
- (iii) a photographic work, means the person who took the photograph;
- (iv) sound recording, means the person by whom the arrangements for the making of the sound recording were made; and

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

"broadcast" means the transmission by wireless means of sounds or images or both, in such a manner as to cause such images or sounds to be received by the public;

"broadcasting organization" means any authority established under any law in Nigeria or elsewhere providing broadcasting services for public reception;

"building" includes any fixed structure or a part of a building or fixed structure;

"choreographic work" means a composition of movements for dancing or any other patterned succession of gestures mostly created to accompanying music;

"collective work" means a collection of literary or artistic works, which by reason of the selection and arrangement of their contents, constitute intellectual creations and as such protected without prejudice to the



copyright in each of the works forming part of such collection;

"communication to the public" means making a work or a performance available to the public by wire or wireless means in such a way that members of the public may access the work or performance from a place and at a time individually chosen by them;

"computer programme" means a set of statements or instructions, whatever may be the mode or form of their expression, to be used directly or indirectly in a computer in order to bring about a certain result;

"copy" means a reproduction in any form including a digital copy;

"copyright" means copyright under this Act;

"court" means the Federal High Court;

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

"Government" includes Federal, State and Local Government;

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

"literary work" includes, irrespective of literary quality, any of the following works or similar works-

(a) novels, stories and poetical works;

(b) plays, stage directions, audiovisual work scenarios and broadcasting scripts;

(c) choreographic works;

(d) computer programmes;

(e) textbooks, treatises, histories, biographies, essays and articles;

(f) encyclopaedias, dictionaries, directories and anthologies;

(g) letters, reports and memoranda;

(h) lectures, addresses and sermons;

(i) law reports, excluding decisions of courts;

(j) written tables and compilations, including table or compilation of data stored or embodied in a computer or any medium;

"Minister" means the Minister charged with the responsibility for copyright matters;

"musical work" means musical composition, irrespective of musical quality;

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

"reproduction" means the making of one or more copies of a literary, musical or artistic work, audiovisual work or sound recording;

"service provider" means a provider of online services or network access, including operators of such facilities, and any entity offering the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user's choosing, without modification to the content of the material as sent or received;

"sound recording" means the fixation of a sequence of sound capable of being perceived aurally and of being reproduced but does not include a sound track, accompanying or incorporated in an audiovisual work;

"work" 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 joint authorship" means a work produced by the collaboration of two or more authors in which the contributions of the authors are merged into inseparable or interdependent part of a whole;

(2) The following provisions shall apply with respect to publication, that is to say-

(a) a work shall be 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, including by making the work 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;

(b) 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; and

(c) 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.

**109. Schedule.** [Return to Main Menu](#)

Section 79(3)

**SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD**

*Proceedings of the Board*

1. Subject to this Act and to section 27 of the Interpretation Act (which provides for the decisions of a statutory body to be taken by a majority of the members of the body and for the person presiding to have a second or casting vote), the Board may make standing orders regulating the proceedings of the Board and any committee thereof.
2. Every meeting of the Board shall be presided over by the Chairman or if the Chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of their members to preside at that meeting.
3. The Board shall meet not less than four times in each year and, subject thereto, the Board shall meet whenever it is summoned by the Chairman; and if the Chairman is required to do so by notice given to him by not less than three other members, he shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given.
4. The quorum of the Board shall consist of the Chairman (or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and five other members and the quorum of any committee of the Board shall be determined by the Board.
5. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him as a member for such period as it deems fit; but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards the quorum.
6. Notwithstanding anything in the foregoing provisions of this paragraph, the first meeting of the Board shall be summoned by the Minister. Committee
7. (1) Subject to its standing orders, the Board may appoint one or more committees to carry out on behalf of the Board such of its functions as the Board may determine.  
(2) Every committee appointed under the provisions of sub-paragraph (1) of this Paragraph, shall consist of such number of persons (not necessarily all members of Board) as may be determined by the Board and a person other than a member of the Board shall hold office on the committee in accordance with the terms of his appointment.  
(3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

**Miscellaneous**

8. The fixing of seal of the Commission shall be authenticated by the signature of the Director-General and any other staff authorised generally or specially by the Commission to act for that purpose.
9. Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Commission by the Director-General or any person generally or specifically authorised by the Commission to act for that purpose.
10. Members of the Board shall be paid such remuneration or allowances as may be approved from time to time by the President.
11. The validity of any proceedings of the Board or of a committee thereof shall not be adversely affected by-
  - (1) any vacancy in the membership of the Board; or
  - (2) any defect in the appointment of a member of the Board or committee; or
  - (3) reason that a person not entitled to do so, took part in the proceedings.

12. Any member of the Board and any person holding office on a committee of the Board, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or a committee thereof shall forthwith disclose his interest to the Board or committee and shall not vote on any question relating to the contract or arrangement.

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