

INDIAN COPYRIGHT ACT, 1957

CHAPTER XI Infringement of Copyright

51. When copyright infringed. -Copyright in a work shall be deemed to be infringed-

(a) when any person, without a licence granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act-

(i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright, or

(ii) ¹⁰¹permits for profit any place to be used for the communication of the work to the public where such communication constitutes an infringement of the copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright; or

(b) when any person-

(i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or

(ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or

(iii) by way of trade exhibits in public, or

(iv) imports ^{102*****} into India, any infringing copies of the work

¹⁰³Provided that nothing in sub-clause (iv) shall apply to the import of one copy of any work for the private and domestic use of the importer.

Explanation.- For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film shall be deemed to be an "infringing copy".

52. Certain acts not to be infringement of copyright. -(1) The following acts shall not constitute an infringement of copyright, namely:

(a) a fair dealing with a literary, dramatic, musical or artistic work ¹⁰⁴[not being a computer programme] for the purposes of-

(i) ¹⁰⁵private use, including research;

(ii) criticism or review, whether of that work or of any other work; "

(aa) ¹⁰⁶the making of copies or adaptation of a computer programme by the lawful possessor of a copy of such computer programme, from such copy-

(i) in order to utilise the computer programme for the purposes for which it was supplied; or

(ii) to make back-up copies purely as a temporary protection against loss, destruction or damage in order only to utilise the computer programme for the purpose for which it was supplied;"

^{121A} "(ab) the doing of any act necessary to obtain information essential for operating inter-operability

of an independently created computer programme with other programmes by a lawful possessor of a computer programme provided that such information is not otherwise readily available;

(ac) the observation, study or test of functioning of the computer programme in order to determine the ideas and principles which underline any elements of the programme while performing such acts necessary for the functions for which the computer programme was supplied;

(ad) the making of copies or adaptation of the computer programme from a personally legally obtained copy for non-commercial personal use; :

(b) a fair dealing with a literary, dramatic, musical or artistic work for the purpose of reporting current events-

(i) in a newspaper, magazine or similar periodical, or

(ii) by ¹⁰⁷[broadcast] or in a cinematograph film or by means of photographs.

¹⁰⁸[*Explanation.*- The publication of a compilation of addresses or speeches delivered in public is not a fair dealing of such work within the meaning of this clause;]

(c) the reproduction of a literary, dramatic, musical or artistic work for the purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding;

(d) the reproduction or publication of a literary, dramatic, musical or artistic work in any work prepared by the Secretariat of a Legislature or, where the Legislature consists of two Houses, by the Secretariat of either House of the Legislature, exclusively for the use of the members of that Legislature;

(e) the reproduction of any literary, dramatic or musical work in a certified copy made or supplied in accordance with any law for the time being in force;

(f) the reading or recitation in public of any reasonable extract from a published literary or dramatic work;

(g) the publication in a collection, mainly composed of non-copyright matter, *bona fide* intended for the use of educational institutions, and so described in the title and in any advertisement issued by or on behalf of the publisher, of short passages from published literary or dramatic works, not themselves published for the use of educational institutions, in which copyright subsists :

Provided that not more than two such passages from works by the same author are published by the same publisher during any period of five years.

Explanation.- In the case of a work of joint authorship, references in this clause to passages from works shall include references to passages from works by any one or more of the authors of those passages or by any one or more of those authors in collaboration with any other person;

(h) the reproduction of a literary, dramatic, musical or artistic work-

(i) by a teacher or a pupil in the course of instruction; or

(ii) as part of the questions to be answered in an examination; or

(iii) in answers to such questions;

(i) the performance, in the course of the activities of an educational institution, of a literary, dramatic or musical work by the staff and students of the institution, or of a cinematograph film or a ¹⁰⁹[sound recordings] if the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution ¹¹⁰[or the communication to such an audience of a cinematograph film or sound recording].

(j) ¹¹¹ the making of sound recordings in respect of any literary, dramatic or musical work, if-

(i) sound recordings of that work have been made by or with the licence or consent of the owner of the right in the work;

(ii) the person making the sound recordings has given a notice of his intention to make the sound recordings, has provided copies of all covers or labels with which the sound recordings are to be sold, and has paid in the prescribed manner to the owner of rights in the work royalties in respect of all such sound recordings to be made by him, at the rate fixed by the Copyright Board in this behalf:

Provided that-

(i) no alterations shall be made which have not been made previously by or with the consent of the owner of rights, or which are not reasonably necessary for the adaptation of the work for the purpose of making the sound recordings;

(ii) the sound recordings shall not be issued in any form of packaging or with any label which is likely to mislead or confuse the public as to their identity;

(iii) no such sound recording shall be made until the expiration of two calendar years after the end of the year in which the first sound recording of the work was made; and

(iv) the person making such sound recordings shall allow the owner of rights or his duly authorised agent or representative to inspect all records and books of account relating to such sound recording:

Provided further that if on a complaint brought before the Copyright Board to the effect that the owner of rights has not been paid in full for any sound recordings purporting to be made in pursuance of this clause, the Copyright Board is, *prima facie*, satisfied that the complaint is genuine, it may pass an order *ex parte* directing the person making the sound recording to cease from making further copies and, after holding such inquiry as it considers necessary, make such further order as it may deem fit, including an order for payment of royalty;

(k) ¹¹² the causing of a recording to be heard in public by utilising it,-

(i) in an enclosed room or hall meant for the common use of residents in any residential premises (not being a hotel or similar commercial establishment) as part of the amenities provided exclusively or mainly for residents therein; or

(ii) as part of the activities of a club or similar organisation which is not established or conducted for profit;

(iii) as part of the activities of a club, society or other organisation which is not established or conducted for profit;

(l) the performance of a literary, dramatic or musical work by an amateur club or society, if the performance is given to a non-paying audience, or for the benefit of a religious institution;

(m) the reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topics, unless the author of such article has expressly reserved to himself the right of such reproduction;

(n) the publication in a newspaper, magazine or other periodical of a report of a lecture delivered in public;

(o) the making of not more than three copies of a book (including a pamphlet, sheet of music, map, chart or plan) by or under the direction of the person in charge of a public library for the use of the library if such book is not available for sale in India;

(p) the reproduction, for the purpose of research or private study or with a view to publication, of an unpublished literary, dramatic or musical work kept in a library, museum or other institution to which the public has access :

Provided that where the identity of the author of any such work or, in the case of a work of joint authorship, of any of the authors is known to the library, museum or other institution, as the case may be, the provisions of this clause shall apply only if such reproduction is made at a time more than ^{121B} sixty years from the date of the death of the author or, in the case of a work of joint authorship, from the death of the author whose identity is known or, if the identity of more authors than one is known from the death of such of those authors who dies last;

(q) the reproduction or publication of-

(i) any matter which has been published in any Official Gazette except an Act of a Legislature;

(ii) any Act of a Legislature subject to the condition that such Act is reproduced or published together with any commentary thereon or any other original matter;

(iii) the report of any committee, commission, council, board or other like body appointed by the Government if such report has been laid on the Table of the Legislature, unless the reproduction or publication of such report is prohibited by the Government;

(iv) any judgement or order of a court, tribunal or other judicial authority, unless the reproduction or publication of such judgment or order is prohibited by the court, the tribunal or other judicial authority, as the case may be;

(r) the production or publication of a translation in any Indian language of an Act of a Legislature and of any rules or orders made thereunder-

(i) if no translation of such Act or rules or orders in that language has previously been produced or published by the Government; or

(ii) where a translation of such Act or rules or orders in that language has been produced or published by the Government, if the translation is not available for sale to the public:

Provided that such translation contains a statement at a prominent place to the effect that the translation has not been authorised or accepted as authentic by the Government;

(s) ¹¹³ the making or publishing of a painting, drawing, engraving or photograph of a work of architecture or the display of a work of architecture;

(t) the making or publishing of a painting, drawing, engraving or photograph of a sculpture, or other artistic work failing under sub-clause (iii) of clause (c) of section 2, if such work is permanently situate in a public place or any premises to which the public has access;

(u) the inclusion in a cinematograph film of-

(i) any artistic work permanently situate in a public place or any premises to which the public has access; or

(ii) any other artistic work, if such inclusion is only by way of background or is otherwise incidental to the principal matters represented in the film;

(v) the use by the author of an artistic work, where the author of such work is not the owner of the copyright therein, of any mould, cast, sketch, plan, model or study made by him for the purpose of the work :

Provided that he does not thereby repeat or imitate the main design of the work;

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(x) the reconstruction of a building or structure in accordance with the architectural drawings or plans by reference to which the building or structure was originally constructed :

Provided that the original construction was made with the consent or licence of the owner of the copyright in such drawings and plans;

(y) in relation to a literary, dramatic or musical work recorded or reproduced in any cinematograph film the exhibition of such film after the expiration of the term of copyright therein :

Provided that the provisions of [sub-clause \(ii\) of clause \(a\), sub-clause \(a\) of clause \(b\) and clauses \(d\), \(f\), \(g\), \(m\) and \(p\)](#) shall not apply as respects any act unless that act is accompanied by an acknowledgment-

(i) identifying the work by its title or other description; and

(ii) unless the work is anonymous or the author of the work has previously agreed or required that no acknowledgement of his name should be made, also identifying the author.

(z) [115](#) the making of an ephemeral recording, by a broadcasting organisation using its own facilities for its own broadcast by a broadcasting organisation of a work which it has the right to broadcast; and the retention of such recording for archival purposes on the ground of its exceptional documentary character;

(za) [116](#) the performance of a literary, dramatic or musical work or the communication to the public of such work or of a sound recording in the course of any *bona fide* religious ceremony or an official ceremony held by the Central Government or the State Government or any local authority.

Explanation. - For the purpose of this clause, religious ceremony including a marriage procession and other social festivities associated with a marriage.

(2) The provisions of [sub-section \(1\)](#) shall apply to the doing of any act in relation to the translation of a literary, dramatic or musical work or the adaptation of a literary, dramatic, musical or artistic work as they apply in relation to the work itself.

[52A. Particulars to be included in records and video films. [117](#) (1) No person shall publish a [118](#) [sound recording] in respect of any work unless the following particulars are displayed on the [sound recording] and on any container thereof, namely:-

(a) the name and address of the person who has made the [sound recording];

(b) the name and address of the owner of the copyright in such work; and

(c) the year of its first publication.

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

(a) if such work is a cinematograph film required to be certified for exhibition under the provisions of the Cinematograph Act, 1952, a copy of the certificate granted by the Board of Film Certification under [section 5A of that Act](#) in respect of such work;

(b) the name and address of the person who has made the video film and a declaration by him that he has obtained the necessary licence or consent from the owner of the copyright in such work for

making such video film; and

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

52B. Accounts and Audit. ¹¹⁹ (1) Every copyright society appointed under [section 34A](#) shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form and in such manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of each of the copyright societies in relation to the payments received from the Central Government shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the copyright society to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the audit of the accounts of the copyright society referred to in [sub-section \(2\)](#) shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts and other documents and papers and to inspect any of the offices of the copyright society for the purpose only of such audit.

(4) The accounts of each of the copyright societies as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

53. Importation of infringing copies. -(1) The Registrar of Copyrights, on application by the owner of the copyright in any work or by his duly authorised agent and on payment of the prescribed fee, may, after making such inquiry as he deems fit, order that copies made out of India of the work which if made in India would infringe copyright shall not be imported.

(2) Subject to any rules made under this Act, the Registrar of Copyrights or any person authorised by him in this behalf may enter any ship, dock or premises where any such copies as are referred to in [sub-section \(1\)](#) may be found and may examine such copies.

(3) All copies to which any order made under [sub-section \(1\)](#) applies shall be deemed to be goods of which the import has been prohibited or restricted ¹²⁰[under section 11 of the Customs Act, 1962], and all the provisions of that Act shall have effect accordingly:

Provided that all such copies confiscated under the provisions of the said Act shall not vest in the Government but shall be delivered to the owner of the copyright in the work.

53A. Resale share right in original copies. ¹²¹ (1) In the case of resale for a price exceeding ten thousand rupees, of the original copy of a painting, sculpture or drawing, or of the original manuscript of a literary or dramatic work or musical work, the author of such work if he was the first owner of rights under section 17 or his legal heirs shall, notwithstanding any assignment of copyright in such work, have a right to share in the resale-price of such original copy or manuscript in accordance with the provisions of this section:

Provided that such right shall cease to exist on the expiration of the term of copyright in the work.

(2) The share referred to in [sub-section \(1\)](#) shall be such as the Copyright Board may fix and the decision of the Copyright Board in this behalf shall be final :

Provided that the Copyright Board may fix different shares for different classes of work :

Provided further that in no case shall the share exceed ten per cent of the resale price.

(3) If any dispute arises regarding the right conferred by this section, it shall be referred to the Copyright Board whose decision shall be final.

[101.](#) Subs. by Act 38 of 1994, s. 51.

[102.](#) Certain words omitted by Act 65 of 1984, s. 3 (w.e.f. 8-10-1984).

[103.](#) Subs. by Act 38 of 1994, s. 5 1

[104.](#) Ins. by Act 38 of 1984, s. 52.

[105.](#) Ins. by Act 38 of 1994, s. 52.

[106.](#) Ins. by Act 38 of 1994, s. 52.

[107.](#) Subs. by Act 23 of 1983, s. 2, for "radio-diffusion" (w.o.f. .9-8-1994).

[108.](#) Ins. by s. 18, *ibid* (w.e.f. 9-8-1984).

[109.](#) Subs. by Act 38 of 1984, s. 2, for "record".

[110.](#) Ins. by Act 38 of 1994, s. 52.

[111.](#) Subs. by Act 38 of 1994, s. 52.

[112.](#) Subs. by Act 38 of 1994, s. 52

[113.](#) Subs by Act 38 of 1994, s. 52

[114.](#) Clause (w) omitted by Act 38 of 1994, s. 52.

[115.](#) Ins. by Act 38 of 1994, s. 52.

[116.](#) Ins. by Act 38 of 1994, s. 52.

[117.](#) Ins. by Act 65 of 1984, s. 4 (w.e.f. 8-10-1984).

[118.](#) Subs. by Act 38 of 1994, s. 2 for `record'.

[119.](#) Ins. by Act 38 of 1994, s. 52B

[120.](#) Sub. by-Act 23 Df 1983, s. 19, for "under section 19 of the Sea Customs Act, 1878" (w.e.f. 9-8-1984).

[121.](#) Ins. by Act 38 of 1994, s. 53A.

[121A. Ins. By Act 49 of 1999, Section 7(wef 15.1.2000)]

[121B. Subs. By Act 49 of 1999 Section 7 for fifty years (wef 15.1.2000)]