

COPYRIGHT ACT, 1957

[Act No. 14 of Year 1957, dated 4th. June, 1957]

COPYRIGHT ACT, 1957

CHAPTER I: PRELIMINARY

1. Short title, extent and commencement

2. Interpretation

⁴[3. Meaning of publication

4. When work not deemed to be published or performed in public

5. When work deemed to be first published in India

⁴[6. Certain disputes to be decided by copyright board

7. Nationality of author where the making of unpublished work is extended over considerable period

8. Domicile of corporations

CHAPTER II : COPYRIGHT OFFICE AND COPYRIGHT BOARD

9. Copyright office

10. Registrar and Deputy Registrars of Copyrights

11. Copyright Board

12. Powers and procedure of Copyright Board

CHAPTER III : COPYRIGHT

13. Works in which copyright subsists

⁴[14. Meaning of copyright

15. Special provision regarding copyright in designs registered or capable of being registered under the ¹⁵[* * *] Designs Act, 1911

16. No copyright except as provided in this Act

CHAPTER IV : OWNERSHIP OF COPYRIGHT AND THE RIGHTS OF THE OWNER

17. First owner of copyright

18. Assignment of copyright

19. Mode of assignment

⁴[19A. Disputes with respect to assignment of copyright]

20. Transmission of copyright in manuscript by testamentary disposition

21. Right of author to relinquish copyright

CHAPTER V : TERM OF COPYRIGHT

22. Term of copyright in published literary, dramatic, musical and artistic works

23. Term of copyright in anonymous and pseudonymous works

24. Term of copyright in posthumous work

25. Term of copyright in photographs

26. Term of copyright in cinematograph films

27. Term of copyright in ¹⁰[sound recording]

28. Term of copyright in government works

28A. Term of copyright in works of public undertakings

29. Term of copyright in works of international organisations

CHAPTER VI : LICENCES

30. Licences by owners of copyright

³[30A. Application of sections 19 and 19A]

31. Compulsory licence in works withheld from public

⁵[31A. Compulsory licence in unpublished Indian works]

32. Licence to produce and publish translations

⁵[32A. License to reproduce and publish works for certain purposes]

32B. Termination of licences issued under this chapter

⁴[CHAPTER VII : COPYRIGHT SOCIETIES

33. Registration of copyright society

34. Administration of rights of owner by copyright society

34A. Payment of remunerations by copyright society

35. Control over the copyright society by the owner of rights

36. Submission of returns and reports

36A. Rights and liabilities of performing rights societies

CHAPTER VIII : ⁴[RIGHTS OF BROADCASTING ORGANISATION AND OF PERFORMERS]

⁴[37. Broadcast reproduction right

⁴[38. Performer's right

⁴[39. Acts not infringing broadcast reproduction right or performer's right

39A. Other provisions applying to broadcast reproduction right and performer's right

CHAPTER IX : INTERNATIONAL COPYRIGHT

40. Power to extend copyright to foreign works

²¹[40A. Power of Central Government to apply Chapter VIII to broadcasting organisations and performers in certain other countries

41. Provisions as to works of certain international organisations

42. Power to restrict rights in works of foreign authors first published in India

²¹[42A. Power to restrict rights of foreign broadcasting organisations and performers

43. Orders under this Chapter to be laid before Parliament

CHAPTER X : REGISTRATION OF COPYRIGHT

44. Register of Copyrights

45. Entries in register of copyrights

46. Indexes

47. Form and inspection of register

[48. Register of copyrights to be prima facie evidence of particulars entered therein](#)

[49. Correction of entries in the register of copyrights](#)

[50. Rectification of register by Copyright Board](#)

[⁵\[50A. Entries in the register of copyrights, etc. to be published](#)

[CHAPTER XI : INFRINGEMENT OF COPYRIGHT](#)

[51. When copyright infringed](#)

[52. Certain acts not to be infringement of copyright](#)

[⁷\[52A. Particulars to be included in ¹⁰\[Sound recordings\] and video films](#)

[³\[52B. Accounts and audit](#)

[53. Importation of infringing copies](#)

[³\[53A. Resale share right in original copies](#)

[CHAPTER XII : CIVIL REMEDIES](#)

[54. Definition](#)

[55. Civil remedies for infringement of copyright](#)

[56. Protection of separate rights](#)

[57. Author's special rights](#)

[58. Rights of owner against persons possessing or dealing with infringing copies](#)

[59. Restriction on remedies in the case of works of architecture](#)

[60. Remedy in the case of groundless threat of legal proceedings](#)

[61. Owner of copyright to be party to the proceeding](#)

[62. Jurisdiction of court over matters arising under this Chapter](#)

[CHAPTER XIII : OFFENCES](#)

[63. Offence of infringement of copyright or other rights conferred by this Act](#)

[⁷\[63A. Enhanced penalty on second and subsequent convictions](#)

[³\[63B. Knowing use of infringing copy of computer programme to be an offence](#)

[64. Power of police to seize infringing copies](#)

[65. Possession of plates for purpose of making infringing copies](#)

[66. Disposal of infringing copies or plates for purpose of making infringing copies](#)

[67. Penalty for making false entries in register, etc. for producing or tendering false entries](#)

[68. Penalty for making false statements for the purpose of deceiving or influencing any authority or officer](#)

[⁷\[68A. Penalty for contravention of section 52A](#)

[69. Offences by companies](#)

[70. Cognisance of offences](#)

[CHAPTER XIV : APPEALS](#)

[71. Appeals against certain orders of Magistrate](#)

[72. Appeals against orders of Registrar of Copyrights and Copyright Board](#)

[73. Procedure for appeals](#)

[CHAPTER XV : MISCELLANEOUS](#)

[74. Registrar of Copyrights and Copyright Board to possess certain powers of civil courts](#)

[75. Orders for payment of money passed by Registrar of Copyrights, and Copyright Board to be executable as a decree](#)

[76. Protection of action taken in good faith](#)

[77. Certain persons to be public servants](#)

[78. Power to make rules](#)

[79. Repeal, saving and transitional provisions](#)

[Foot Notes](#)

An Act to amend and consolidate the law relating to copyright

Be it enacted by Parliament in the Eighth Year of the Republic of India as follows: -

CHAPTER I: PRELIMINARY

1. Short title, extent and commencement

(1) This Act may be called the Copyright Act, 1957.

(2) It extends to the whole of India.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

2. Interpretation

In this Act, unless the context otherwise requires,-

(a) "adaptation" means,-

(i) in relation to a dramatic work, the conversion of the work into a non-dramatic work;

(ii) in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise;

(iii) in relation to a literary or dramatic work, any abridgement of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; ²[* * *]

(iv) in relation to a musical work, any arrangement or transcription of the work; ³[and

(v) in relation to any work, any use of such work involving its re-arrangement or alteration;]

(b) ⁴["work of architecture"] means any building or structure having an artistic character or design, or any model for such building or structure;

(c) "artistic work" means-

(i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality;

(ii) a ⁴[work of architecture]; and

(iii) any other work of artistic craftsmanship;

(d) "author" means-

(i) in relation to a literary or dramatic work, the author of the work;

(ii) in relation to a musical work, the composer;

(iii) in relation to an artistic work other than a photograph, the artist;

(iv) in relation to a photograph, the person taking the photograph;

⁴[(v) in relation to a cinematograph film or sound recording, the producer; and

(vi) in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created;]

⁵[(dd) "broadcast" means communication to the public-

(i) by any means of wireless diffusion, whether in any one or more of the forms of signs, sounds or visual images; or

(ii) by wire,

and includes a re-broadcast;]

(e) "calendar year" means the year commencing on the 1st day of January;

⁴[(f) "cinematograph film" means any work of visual recording on any medium produced through a process from which a moving image may be produced by any means and, includes a sound recording accompanying such visual recording and "cinematograph" shall be construed as including any work produced by any process analogous to cinematography including video films;]

⁴[(ff) "communication to the public" means making any work available for being seen or heard or otherwise enjoyed by the public directly or by any means of display or diffusion other than by issuing copies of such work regardless of whether any member of the public actually sees, hears or otherwise enjoys the work so made available.

Explanation : For the purposes of this clause, communication through satellite or cable or any other means of simultaneous communication to more than one household or place of residence including residential rooms of any hotel or hostel shall be deemed to be communication to the public;

(ffa) "composer", in relation to a musical work, means the person who composes the music regardless of whether he records it in any form of graphical notation;

(ffb) "computer" includes any electronic or similar device having information processing capabilities;

(ffc) "computer programme" means a set of instructions expressed in words, codes, schemes or in any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular result;

(ffd) "copyright society" means a society registered under sub-section (3) of section 33;]

(g) "delivery", in relation to a lecture, includes delivery by means of any mechanical instrument or by ⁶[broadcast];

(h) "dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting, form of which is fixed in writing or otherwise but does not include a cinematograph film;

⁷(hh) "duplicating equipment" means any mechanical contrivance or device used or intended to be used for making copies of any work;]

(i) "engravings" include etchings, lithographs, wood-cuts, prints and other similar works, not being photographs;

(j) "exclusive licence" means a licence which confers on the licensee or on the licencees and persons authorised by him, to the exclusion of all other persons (including the owner of the copyright), any right comprised in the copyright in a work, and "exclusive licensee" shall be construed accordingly;

(k) "government work" means a work which is made or published by or under the direction or control of-

(i) the government or any department of the government;

(ii) any Legislature in India;

(iii) any court, Tribunal or other judicial authority in India;

⁸[(l) "Indian work" means a literary, dramatic or musical work,-

(i) the author of which is a citizen of India; or

(ii) which is first published in India; or

(iii) the author of which, in the case of an unpublished work, is, at the time of the making of the work, a citizen of India;]

⁴[(m) "infringing copy" means,-

(i) in relation to literary, dramatic, musical or artistic work, a reproduction thereof otherwise than in the form of a cinematographic film;

(ii) in relation to a cinematographic film, a copy of the film made on any medium by any means;

(iii) in relation to a sound recording, any other recording embodying the same sound recording, made by any means;

(iv) in relation to a programme or performance in which such a broadcast, reproduction right or a performer's right subsists under the provisions of this Act, the sound recording or a cinematographic film of such programme or performance,

if such reproduction, copy of sound recording is made or imported in contravention of the provisions of this Act.]

(n) "lecture" includes address, speech and sermon;

⁴[(o) "literary work" includes computer programmes, tables and compilations including computer ⁹[databases];

(p) "musical work" means a work consisting of music and includes any graphical notation of such work but does not include any works or any action intended to be sung, spoken or performed with the music;

(q) "performance", in relation to performer's right, means any visual or acoustic presentation made live by one or more performers;]

³[(qq) "performer" includes an actor, singer, musician, dancer, acrobat, juggler, conjurer, snake charmer, a person delivering a lecture or any other person who makes a performance;]

(r) ²[* * *]

(s) "photograph" includes photo-lithograph and any work produced by any process analogous to photography but does not include any part of a cinema to graph film;

(t) "plate" includes any stereotype or other plate, stone, block, mould, matrix, transfer, negative, ⁷[, duplicating equipment] or other device used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which ¹⁰[sound recording] for the acoustic presentation of the work are or are intended to be made;

(u) "prescribed" means prescribed by rules made under this Act;

³[(uu) "producer", in relation to a cinematograph film or sound recording, means a person who takes the initiative and responsibility for making the work;]

(v) ¹¹[***]

(w) ²[***]

⁴[(x) "reprography" means the making of copies of a work, by photocopying or similar means;

(xx) "sound recording" means a recording of sounds from which such sounds may be produced regardless of the medium on which such recording is made or the method by which the sounds are produced;]

(y) "work" means any of the following works, namely,-

(i) a literary, dramatic, musical or artistic work;

(ii) a cinematograph film;

(iii) a ¹⁰[sound recording];

(z) "work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors;

(za) "work of sculpture" includes casts and models.

⁴[3. Meaning of publication

For the purposes of this Act, "publication" means making a work available to the public by issue of copies or by communicating the work to the public.]

4. When work not deemed to be published or performed in public

Except in relation to infringement of copyright, a work shall not be deemed to be published or performed in public, if published or performed in public, without the licence of the owner of the copyright.

5. When work deemed to be first published in India

For the purposes of this Act, a work published in India shall be deemed to be first published in India, notwithstanding that it has been published simultaneously in some other country, unless such other country provides a shorter term of copyright for such work; and a work shall be deemed to be published simultaneously in India and in another country if the time between the publication in India and the publication in such other country does not exceed thirty days or such other period as the Central Government may, in relation to any specified country, determine.

⁴[6. Certain disputes to be decided by copyright board

If any question arises,-

(a) whether a work has been published or as to the date on which a work was published for the purposes of Chapter V, or

(b) whether the term of copyright for any work is shorter in any other country than that provided in respect of that work under this Act,

it shall be referred to the copyright board constituted under section 11 whose decision thereon shall be final:

PROVIDED that if in the opinion of the copyright board, the issue of copies or communication to the public referred to in section 3 was of an insignificant nature, it shall not be deemed to be publication for the purposes of that section.]

7. Nationality of author where the making of unpublished work is extended over considerable period

Where, in the case of an unpublished work, the making of the work is extended over a considerable period, the author of the work shall, for the purposes of this Act, be deemed to be a citizen of, or domiciled in, that country of which he was a citizen or wherein he was domiciled during any substantial part of that period.

8. Domicile of corporations

For the purposes of this Act, a body corporate shall be deemed to be domiciled in India if it is incorporated under any law in force in India.

CHAPTER II : COPYRIGHT OFFICE AND COPYRIGHT BOARD

9. Copyright office

(1) There shall be established for the purposes of this Act an office to be called the Copyright Office.

(2) The Copyright Office shall be under the immediate control of the Registrar of Copyrights who shall act under the superintendence and direction of the Central Government.

(3) There shall be a seal for the Copyright Office.

10. Registrar and Deputy Registrars of Copyrights

(1) The Central Government shall appoint a Registrar of Copyrights and may appoint one or more Deputy Registrars of Copyrights.

(2) A Deputy Registrar of Copyrights shall discharge under the superintendence and direction of the Registrar of Copyrights such functions of the Registrar under this Act as the Registrar may, from time to time, assign to him; and any reference in this Act to the Registrar of Copyrights shall include a reference to a Deputy Registrar of Copyrights when so discharging any such functions.

11. Copyright Board

(1) As soon as may be after the commencement of this Act, the Central Government shall constitute a Board to be called the Copyright Board which shall consist of a Chairman and not less than two nor more than ⁴[fourteen] other members.

(2) The Chairman and other members of the Copyright Board shall hold office for such period and on such terms and conditions as may be prescribed.

(3) The Chairman of the Copyright Board shall be a person who is or, has been, a judge of ²[* * *] a High Court or is qualified for appointment as a Judge of a High Court.

(4) The Registrar of Copyrights shall be the Secretary of the Copyright Board and shall perform such functions as may be prescribed.

12. Powers and procedure of Copyright Board

(1) The Copyright Board shall, subject to any rules that may be made under this Act, have power to regulate its own procedure, including the fixing of places and times of its sittings:

PROVIDED that the Copyright Board shall ordinarily hear any proceeding instituted before it under this Act within the zone in which, at the time of the institution of the proceeding, the person instituting the proceeding actually and voluntarily resides or carries on business or personally works for gain.

Explanation: In this sub-section "zone" means a zone specified in section 15 of the States Reorganisation Act, 1956 (37 of 1956).

(2) The Copyright Board may exercise and discharge its powers and functions through Benches constituted by the Chairman of the Copyright Board from amongst its members, each Bench consisting of not less than three members:

³[PROVIDED that, if the Chairman is of opinion that any matter of importance is required to be heard by a larger bench, he may refer the matter to a special bench consisting of five members.]

(3) If there is a difference of opinion among the members of the Copyright Board or any Bench thereof in respect of any matter coming before it for decision under this Act, the opinion of the majority shall prevail:

⁴[PROVIDED that where there is no such majority, the opinion of the Chairman shall prevail.]

(4) ¹²[The Chairman] may authorise any of its members to exercise any of the powers conferred on it by section 74 and any order made or act done in exercise of those powers by the member so authorised shall be deemed to be the order or act, as the case may be, of the Board.

(5) No member of the Copyright Board shall take part in any proceedings before the Board in respect of any matter in which he has a personal interest.

(6) No act done or proceeding taken by the Copyright Board under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

(7) The Copyright Board shall be deemed to be a civil court for the purposes of ¹³[sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974)] and all proceedings before the Board shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

CHAPTER III : COPYRIGHT

13. Works in which copyright subsists

(1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,-

- (a) original literary, dramatic, musical and artistic works;
- (b) cinematograph films; and
- (c) ¹⁰[sound recording].

(2) Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 40 or section 41 apply, unless,-

(i) in the case of a published work, the work is first published in India, or where the work is first published outside India, the author is at the date of such publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of India;

(ii) in the case of an unpublished work other than ¹²[work of architecture], the author is at the date of the making of the work a citizen of India or domiciled in India; and

(iii) in the case of a ¹²[work of architecture], the work is located in India.

Explanation : In the case of a work of joint authorship, the conditions conferring copyright specified in this sub-section shall be satisfied by all the authors of the work.

(3) Copyright shall not subsist-

(a) in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work;

(b) in any ¹⁰[sound recording] made in respect of a literary, dramatic or musical work, if in making the ¹⁰[sound recording], copyright in such work has been infringed.

(4) The copyright in a cinematograph film or a ¹⁰[sound recording] shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or as the case may be, the ¹⁰[sound recording] is made.

(5) In the case of a ⁴[work of architecture], copyright shall subsist only in the artistic character and design and shall not extend to processes or methods of construction.

⁴[14. Meaning of copyright

For the purposes of this Act, "copyright" means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely,-

(a) in the case of a literary, dramatic or musical work, not being a computer programme,-

(i) to reproduce the work in any material form including the storing of it in any medium by electronic means;

(ii) to issue copies of the work to the public not being copies already in circulation;

(iii) to perform the work in public, or communicate it to the public;

(iv) to make any cinematograph film or sound recording in respect of the work;

(v) to make any translation of the work;

(vi) to make any adaptation of the work;

(vii) to do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-clauses (i) to (vi);

(b) in the case of a computer programme,-

(i) to do any of the acts specified in clause (a);

¹⁴[(ii) to sell or give on commercial rental or offer for sale or for commercial rental any copy of the computer programme:

PROVIDED that such commercial rental does not apply in respect of computer programmes where the programme itself is not the essential object of the rental.]

(c) in the case of an artistic work,-

(i) to reproduce the work in any material form including depiction in three dimensions of a two dimensional work or in two dimensions of a three dimensional work;

(ii) to communicate the work to the public;

(iii) to issue copies of the work to the public not being copies already in circulation;

(iv) to include the work in any cinematograph film;

(v) to make any adaptation of the work;

(vi) to do in relation to an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to (iv);

(d) in the case of a cinematograph film,-

(i) to make a copy of the film, including a photograph of any image forming part thereof;

(ii) to sell or give on hire or offer for sale or hire, any copy of the film, regardless of whether such copy has been sold or given on hire on earlier occasions;

(iii) to communicate the film to the public;

(e) in the case of a sound recording-

(i) to make any other sound recording embodying it;

(ii) to sell or give on hire, or offer for sale or hire, any copy of the sound recording regardless of whether such copy has been sold or given on hire on earlier occasions;

(iii) to communicate the sound recording to the public.

Explanation: For the purposes of this section, a copy which has been sold once shall be deemed to be a copy already in circulation.]

15. Special provision regarding copyright in designs registered or capable of being registered under the ¹⁵[* * *] Designs Act, 1911

(1) copyright shall not subsist under this Act in any design which is registered under the ¹⁵[* * *] Designs Act, 1911 (2 of 1911).

(2) Copyright in any design, which is capable of being registered under the Designs Act, 1911 (2 of 1911), but which has not been so registered, shall cease as soon as any article to which the design has been applied has been produced more

than fifty times by an industrial process by the owner of the copyright or, with his licence, by any other person.

16. No copyright except as provided in this Act

No person shall be entitled to copyright or any similar right in any work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act or of any other law for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

CHAPTER IV : OWNERSHIP OF COPYRIGHT AND THE RIGHTS OF THE OWNER

17. First owner of copyright

Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein:

PROVIDED that-

(a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work insofar as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work;

(b) subject to the provisions of clause (a), in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

(c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

⁵[(cc) in the case of any address or speech delivered in public, the person who has delivered, such address or speech or if such person has delivered such address or speech on behalf of any other person, such other person shall be the first owner of the copyright therein notwithstanding that the person who delivers such address or speech, or, as the case may be, the person on whose behalf such address or speech

is delivered, is employed by any other person who arranges such address or speech or on whose behalf or premises such address or speech is delivered;]

(d) in the case of a government work, government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

⁵[(dd) in the case of a work made or first published by or under the direction or control of any public undertaking, such public undertaking shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein.

Explanation: For the purposes of this clause and section 28A, "public undertaking" means-

(i) an undertaking owned or controlled by government; or

(ii) a government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(iii) a body corporate established by or under any Central, Provincial or State Act;]

(e) in the case of a work to which the provisions of section 41 apply, the international organisation concerned shall be the first owner of the copyright therein.

18. Assignment of copyright

(1) The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof :

PROVIDED that in the case of the assignment of copyright in any future work, the assignment shall take effect only when the work comes into existence.

(2) Where the assignee of a copyright become entitled to any right comprised in the copyright, the assignee as respects the rights so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of copyright and the provisions of this Act shall have effect accordingly.

(3) In this section, the expression "assignee" as respects the assignment of the copyright in any future work includes the legal representatives of the assignee, if the assignee dies before the work comes into existence.

19. Mode of assignment

¹⁶[(1)] No assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or by his duly authorised agent.

⁴[(2) The assignment of copyright in any work shall identify such work, and shall specify the rights assigned and the duration and territorial extent of such assignment.

(3) The assignment of copyright in any work shall also specify the amount of royalty payable, if any, to the author or his legal heirs during the currency of the assignment and the assignment shall be subject to revision, extension or termination on terms mutually agreed upon by the parties.

(4) Where the assignee does not exercise the rights assigned to him under any of the other sub-sections of this section within a period of one year from the date of assignment, the assignment in respect of such rights shall be deemed to have lapsed after the expiry of the said period unless otherwise specified in the assignment.

(5) If the period of assignment is not stated, it shall be deemed to be five years from the date of assignment.

(6) If the territorial extent of assignment of the rights is not specified, it shall be presumed to extend within India.

(7) Nothing in sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) or sub-section (6) shall be applicable to assignments made before the coming into force of the Copyright (Amendment) Act, 1994.]

⁴[19A. Disputes with respect to assignment of copyright

(1) If an assignee fails to make sufficient exercise of the rights assigned to him, and such failure is not attributable to any act or omission of the assignor, then, the Copyright Board may, on receipt of a complaint from the assignor and after holding such inquiry as it may deem necessary, revoke such assignment.

(2) If any dispute arises with respect to the assignment of any copyright, the Copyright Board may, on receipt of a complaint from the aggrieved party and after holding such inquiry as it considers necessary, pass such order as it may deem fit including an order for the recovery of any royalty payable:

PROVIDED that the Copyright Board shall not pass any order under this sub-section to revoke the assignment unless it is satisfied that the terms of assignment are harsh to the assignor in case the assignor is also the author:

PROVIDED FURTHER that no order of revocation of assignment under this sub-section, shall be made within a period of five years from the date of such assignment.]

20. Transmission of copyright in manuscript by testamentary disposition

Where under a bequest a person is entitled to the manuscript of a literary, dramatic or musical work, or to an artistic work, and the work was not published before the death Of the testator, the bequest shall, unless the contrary intention is indicated in

the testator's will or any codicil thereto, be construed as including the copyright in the work insofar as the testator was the owner of the copyright immediately before his death.

Explanation : In this section, the expression "manuscript" means the original document embodying the work, whether written by hand or not.

21. Right of author to relinquish copyright

(1) The author of a work may relinquish all or any of the rights comprised in the copyright in the work by giving notice in the prescribed form to the Registrar of Copyrights and thereupon such rights shall, subject to the provisions of sub-section (3), cease to exist from the date of the notice.

(2) On receipt of a notice under sub-section (1), the Registrar of Copyrights shall cause it to be published in the Official Gazette and in such other manner as he may deem fit.

(3) The relinquishment of all or any of the rights comprised in the copyright in a work shall not affect any rights subsisting in favour of any person on the date of the notice referred to in sub-section (1).

CHAPTER V : TERM OF COPYRIGHT

22. Term of copyright in published literary, dramatic, musical and artistic works

Except as otherwise hereinafter provided, copyright shall subsist in any literary, dramatic, musical or artistic work (other than a photograph) published within the lifetime of the author until ¹⁷[sixty] years from the beginning of the calendar year next following the year in which the author dies.

Explanation : In this section the reference to the author shall, in the case of a work of joint authorship, be construed as a reference to the author who dies last.

23. Term of copyright in anonymous and pseudonymous works

(1) In the case of a literary, dramatic, musical or artistic work (other than a photograph), which is published anonymously or pseudonymously, copyright shall subsist until ¹⁷[sixty] years from the beginning of the calendar year next following the year in which the work is first published:

PROVIDED that where the identity of the author is disclosed before the expiry of the said period, copyright shall subsist until ¹⁷[sixty] years from the beginning of the calendar year next following the year in which the author dies.

(2) In sub-section (1), references to the author shall, in the case of an anonymous work of joint authorship, be construed,-

(a) where the identity of one of the authors is disclosed, as references to that author;

(b) where the identity of more authors than one is disclosed, as references to the author who dies last from amongst such authors.

(3) In sub-section (1), references to the author shall, in the case of a pseudonymous work of joint authorship, be construed,-

(a) where the names of one or more (but not all) of the authors are pseudonymous and his or their identity is not disclosed, as references to the author whose name is not a pseudonym, or, if the names of two or more of the authors are not pseudonyms, as references to such of those authors who dies last;

(b) where the names of one or more (but not all) of the authors are pseudonyms and the identity of one or more of them is disclosed, as references to the author who dies last from amongst the authors whose names are not pseudonyms and the authors whose names are pseudonyms and are disclosed; and

(c) where the names of all the authors are pseudonyms and the identity of one of them is disclosed, as references to the author whose identity is disclosed or if the identity of two or more of such authors is disclosed, as references to such of those authors who dies last.

Explanation : For the purposes of this section, the identity of an author shall be deemed to have been disclosed, if either the identity of the author is disclosed publicly by both the author and the publisher or is otherwise established to the satisfaction of the Copyright Board by that author.

24. Term of copyright in posthumous work

(1) In the case of a literary, dramatic or musical work or an engraving, in which copyright subsists at the date of the death of the author or, in the case of any such work of joint authorship, at or immediately before the date of the death of the author who dies last, but which, or any adaptation of which, has not been published before that date, copyright shall subsist until ¹⁷[sixty] years from the beginning of the calendar year next following the year in which the work is first published or, where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year.

(2) For the purposes of this section a literary, dramatic or musical work or an adaptation of any such work shall be deemed to have been published, if it has been performed in public or if any ¹⁰[sound recording] made in respect of the work have been sold to the public or have been offered for sale to the public.

25. Term of copyright in photographs

In the case of a photograph, copyright shall subsist until ¹⁷[sixty] years from the beginning of the calendar year next following the year in which the photograph is published.

26. Term of copyright in cinematograph films

In the case of cinematograph film, copyright shall subsist until ¹⁷[sixty] years from the beginning of the calendar year next following the year in which the film is published.

27. Term of copyright in ¹⁰[sound recording]

In the case of a ¹⁰[sound recording], copyright shall subsist until ¹⁷[sixty] years from the beginning of the calendar year next following the year in which the ¹⁰[sound recording] is published.

28. Term of copyright in government works

In the case of government work, where government is the first owner of the copyright therein, copyright shall subsist until ¹⁷[sixty] years from the beginning of the calendar year next following the year in which the work is first published.

28A. Term of copyright in works of public undertakings

In the case of a work, where a public undertaking is the first owner of the copyright therein, copyright shall subsist until ¹⁷[sixty] years from the beginning of the calendar year next following the year in which the work is first published.

29. Term of copyright in works of international organisations

In the case of a work of an international organisation to which the provisions of section 41 apply, copyright shall subsist until ¹⁷[sixty] years from the beginning of the calendar year next following the year in which the work is first published.

CHAPTER VI : LICENCES

30. Licences by owners of copyright

The owner of the copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in the right by licence in writing signed by him or by his duly authorised agent:

PROVIDED that in the case of a licence relating to copyright in any future work, the licence shall take effect only when the work comes into existence.

Explanation: Where a person to whom a licence relating to copyright in any future work is granted under this section dies before the work comes into existence, his legal representatives shall, in the absence of any provision to the contrary in the licence, be entitled to the benefit of the licence.

³[30A. Application of sections 19 and 19A

The provisions of sections 19 and 19A shall, with any necessary adaptations and modifications, apply in relation to a licence under section 30 as they apply in relation to assignment of copyright in a work.]

31. Compulsory licence in works withheld from public

(1) If at any time during the term of copyright in any Indian work which has been published or performed in public, a complaint is made to the Copyright Board that the owner of copyright in the work-

(a) has refused to re-publish or allow the re-publication of the work or has refused to allow the performance in public of the work, and by reason of such refusal the work is withheld from the public; or

(b) has refused to allow communication to the public by ⁶[broadcast], of such work or the case of a ¹⁰[sound recording] the work recorded in such ¹⁰[sound recording], on terms which the complainant considers reasonable;

the Copyright Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that the grounds for such refusal are not reasonable, direct the Registrar of Copyrights to grant to the complainant a licence to republish the work, perform the work in public or communicate the work to the public by ¹⁷[broadcast], as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such other terms and conditions as the Copyright Board may determine; and thereupon the Registrar of Copyrights shall grant the licence to the complainant in accordance with the directions of the Copyright Board, on payment of such fee as may be prescribed.

Explanation : In this sub-section, the expression "Indian work" includes-

(i) an artistic work, the author of which is a citizen of India; and

(ii) a cinematograph film or a ¹⁰[sound recording] made or manufactured in India.

(2) Where two or more persons have made a complaint under sub-section (1), the licence shall be granted to the complainant who in the opinion of the Copyright Board would best serve the interests of the general public.

⁵[31A. Compulsory licence in unpublished Indian works]

(1) Where, in the case of an Indian work referred to in sub-clause (iii) of clause (1) of section 2, the author is dead or unknown or cannot be traced, or the owner of the copyright in such work cannot be found, any person may apply to the Copyright Board for a licence to publish such work or a translation thereof in any language.

(2) Before making an application under sub-section (1), the applicant shall publish his proposal in one issue of a daily newspaper in the English language having circulation in the major part of the country and where the application is for the

publication of a translation in any language, also in one issue of any daily newspaper in that language.

(3) Every such application shall be made in such form as may be prescribed and shall be accompanied with a copy of the advertisement issued under sub-section (2) and such fee as may be prescribed.

(4) Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, direct the Registrar of Copyrights to grant to the applicant a licence to publish the work or a translation thereof in the language mentioned in the application subject to the payment of such royalty and subject to such other terms and conditions as the Copyright Board may determine, and thereupon the Registrar of Copyrights shall grant the licence to the applicant in accordance with the direction of the Copyright Board.

(5) Where a licence is granted under this section, the Registrar of Copyright may, by order, direct the applicant to deposit the amount of the royalty determined by the Copyright Board in the public account of India or in any other account specified by the Copyright Board so as to enable the owner of the copyright or, as the case may be, his heirs, executors or the legal representatives to claim such royalty at any time.

(6) Without prejudice to the foregoing provisions of this section in the case of a work referred to in sub-section (1), if the original author is dead, the Central Government may, if it considers that the publication of the work is desirable in the national interest, require the heirs, executors or legal representatives of the author to publish such work within such period as may be specified by it.

(7) Where any work is not published within the period specified by the Central Government under sub-section (6), the Copyright Board may, on an application made by any person for permission to publish the work and after hearing the parties, concerned, permit such publication on payment of such royalty as the Copyright Board may, in the circumstances of such case, determine in the prescribed manner.]

32. Licence to produce and publish translations

(1) Any person may apply to the Copyright Board for a licence to produce and publish a translation of a literary or dramatic work in any language ⁵[after a period of seven years from the first publication of the work.]

⁵[(1A) Not with standing anything contained in sub-section (1), any person may apply to the Copyright Board for a licence to produce and publish a translation, in printed or analogous forms of reproduction, of a literary or dramatic work, other than an Indian work, in any language in general use in India after a period of three years from the first publication of such work, if such translation is required for the purposes of teaching, scholarship or research:

PROVIDED that where such translation is in a language not in general use in any developed country, such application may be made after a period of one year from such publication.]

(2) Every ¹⁸[application under this section] shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.

(3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.

(4) Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, grant to the applicant a licence, not being an exclusive licence, to produce and publish a translation of the work in the language mentioned in ¹³[the application-

(i) subject to the condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner; and

(ii) where such licence is granted on an application under sub-section (1A), subject also to the condition that the licence shall not extend to the export of copies of the translation of the work outside Indian and every copy of such translation shall contain a notice in the language of such translation that the copy is available for distribution only in India:

PROVIDED that nothing in clause (ii) shall apply to the export by government or any authority under the government of copies of such translation in a language other than English, French or Spanish to any country if-

(1) such copies are sent to citizens of India residing outside India or to any association of such citizens outside India; or

(2) such copies are meant to be used for purposes of teaching, scholarship or research and not for any commercial purpose; and

(3) in either case, the permission for such export has been given by the government of that country:]

¹⁹[PROVIDED FURTHER that no licence under this section] shall be granted, unless-

(a) a 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, ¹³[within seven years or three years or one year, as the case may be, of the first publication of the work], or if a translation has been so published, it has been out of print;

(b) the applicant has proved to the satisfaction of the Copyright Board that he had requested and had been denied authorisation by the owner of the copyright to produce and publish such translation, or that ¹³[he was, after due diligence on his part, unable to find] the owner of the copyright;

(c) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for ¹³[such authorisation by registered air mail post to the

publisher whose name appears from the work, and in the case of an application for a licence under sub-section (1)] not less than two months before ¹³[such application];

¹³[(cc) a period of six months in the case of an application under sub-section (1A) (not being an application under the proviso thereto), or nine months in the case of an application under the proviso to that sub-section, has elapsed from the date of making the request under clause (b) of this proviso, or where a copy of the request has been sent under clause (c) of this proviso, from the date of sending of such copy, 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 the said period of six months or nine months, as the case may be;

(ccc) in the case of any application made under sub-section (1A),-

(i) the name of the author and the title of the particular edition of the work proposed to be translated are printed on all the copies of the translation;

(ii) if the work is composed mainly of illustrations, the provisions of section 32A are also complied with;]

(d) the Copyright Board 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 payable to him under this section;

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

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

⁵[(5) Any broadcasting authority may apply to the Copyright Board for a licence to produce and publish the translation of-

(a) a work referred to in sub-section (1A) and published in printed or analogous forms of reproduction; or

(b) any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities,

for broadcasting such translation for the purposes of teaching or for the dissemination for of the results of specialised, technical or scientific research to the experts in any particular field.

(6) The provisions of sub-sections (2) to (4) insofar as they are relatable to an application under sub-section (1A), shall, with the necessary modifications, apply to the grant of a licence under sub-section (5) and such licence shall not also be granted unless-

(a) the translation is made from a work lawfully acquired;

(b) the broadcast is made through the medium of sound and visual recordings;

(c) such recording has been lawfully and exclusively made for the purpose of broadcasting in India by the applicant or by any other broadcasting agency; and

(d) the translation and the broadcasting of such translation are not used for any commercial purposes.

Explanation : For the purposes of this section,-

(a) "developed country" means a country which is not a developing country;

(b) "developing country" means a country which is for the time being regarded as such in conformity with the practice of the General Assembly of the United Nations;

(c) "purposes of research" does not include purposes of industrial research, or purposes of research by bodies corporate (not being bodies corporate owned or controlled by government) or other associations or body of persons for commercial purposes;

(d) " purposes of teaching, research or scholarship" includes-

(i) purposes of instructional activity at all levels in educational institutions, including schools, colleges, universities and tutorial institutions; and

(ii) purposes of all other types of organised educational activity.]

⁵[32A. License to reproduce and publish works for certain purposes

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

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

(b) such copies have not been put on sale in India for a period of six months,

to the general public, or in connection with systematic instructional activities at a price reasonably related to that normally charged in India for comparable works by the owner of the right of reproduction or by any person authorised by him in this behalf, any person may apply to the Copyright Board for a licence to reproduce and publish such work in printed or analogous forms of reproduction at the price at which such edition is sold or at a lower price for the purposes of systematic instructional activities.

(2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the work to be reproduced.

(3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.

(4) Where an application is made to be Copyright Board under this section, it may, after holding such inquiry as may be prescribed, grant to the applicant a licence not being an exclusive licence, to produce and publish a reproduction of the work mentioned in the application subject to the conditions that,-

(i) the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the reproduction of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner;

(ii) a licence granted under this section shall not extend to the export of copies of the reproduction of the work outside India and every copy of such reproduction shall contain a notice that the copy is available for distribution only in India:

PROVIDED that no such licence shall be granted unless-

(a) the applicant has proved to the satisfaction of the Copyright Board that he had requested and had been denied authorisation by the owner of the copyright in the work 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 was unable to find the owner of the copyright, he had sent a copy of his request for such authorisation by registered air-mail post to the publisher whose name appears from the work not less than three months before the application for the licence;

(c) the Copyright Board 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 payable to him under this section;

(d) the applicant undertakes to reproduce and publish the work at such price as may be fixed by the Copyright Board, being a price reasonably related to the price normally charged in India for works of the same standard on the same or similar subjects;

(e) 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 elapsed from the date of making the request under clause (a), or where a copy of the request has been sent under clause (b), 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 the said period of six months or, three months, as the case may be;

(f) 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;

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

(h) an opportunity of being heard is given, wherever Practicable, to the owner of the copyright in the work.

(5) No licence to reproduce and publish the translation of a work shall be granted under this section unless such translation has been published by the owner of the right of translation or any person authorised by him and the translation is not in a language in general use in India.

(6) The provisions of this section shall also apply to the reproduction and publication, or translation into a language in general use in India, of any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities.

Explanation : For the purposes of this section, "relevant period", in relation to any work, means a period of-

(a) seven years from the date of the first publication of that work, where the application is for the reproduction and publication of any work of, or relating to, fiction, poetry, drama, music or art;

(b) three years, from the date of the first publication of that work, where the application is for the reproduction and publication of any work of, or relating to, natural science, physical science, mathematics or technology; and

(c) five years from the date of the first publication of that work, in any other case.

32B. Termination of licences issued under this chapter

(1) If, at any time after the granting of a licence to produce and publish the translation of a work in any language under sub-section (1A) of section 32 (hereafter in this sub-section referred to as the licensed work), the owner of the copyright in the work or any person authorised by him publishes a translation of such work in the same language and which is substantially the same in content at a price reasonably related to the price normally charged in India for the translation of works of the same standard on the same or similar subject, the licence so granted shall be terminated :

PROVIDED that no such termination shall take effect until after the expiry of a period of three months from the date of service of a notice in the prescribed manner on the person holding such licence by the owner of the right of translation intimating the publication of the translation as aforesaid:

PROVIDED FURTHER that copies of the licensed work produced and published by the person holding such licence before the termination of the licence takes effect may continue to be sold or distributed until the copies already produced and published are exhausted.

(2) If, at any time after the granting of a licence to produce and publish the reproduction or translation of any work under section 32A, the owner of the right of reproduction or any person authorised by him sells or distributes copies of such work or a translation thereof, as the case may be, in the same language and which is

substantially the same in content at a price reasonably related to the price normally charged in India for works of the same standard on the same or similar subject, the licence so granted shall be terminated:

PROVIDED that no such termination shall take effect until after the expiry of a period of three months from the date of service of a notice in the prescribed manner on the person holding the licence by the owner of the right of reproduction intimating the sale or distribution of the copies of the editions of work as aforesaid :

PROVIDED FURTHER that any copies already reproduced by the licensee before such termination takes effect may continue to be sold or distributed until the copies already produced are exhausted.]

⁴[CHAPTER VII : COPYRIGHT SOCIETIES

33. Registration of copyright society

(1) No person or association of persons shall, after coming into force of the Copyright (Amendment) Act, 1994 commence or, carry on the business of issuing or granting licences in respect of any work in which copyright subsists or in respect of any other rights conferred by this Act except under or in accordance with the registration granted under sub-section (3):

PROVIDED that an owner of copyright shall, in his individual capacity, continue to have the right to grant licences in respect of his own works consistent with his obligations as a member of the registered copyright society:

PROVIDED FURTHER that a performing rights society functioning in accordance with the provisions of section 33 on the date immediately before the coming into force of the Copyright (Amendment) Act, 1994 shall be deemed to be a copyright society for the purposes of this Chapter and every such society shall get itself registered within a period of one year from the date of commencement of the Copyright (Amendment) Act, 1994.

(2) Any association of persons who fulfils such conditions as may be prescribed may apply for permission to do the business specified in sub-section (1) to the Registrar of Copyrights who shall submit the application to the Central Government.

(3) The Central Government may, having regard to the interests of the authors and other owners or rights under this Act, the interest and convenience of the public and in particular of the groups of persons who are most likely to seek licences in respect of the relevant rights and the ability and professional competence of the applicants, register such association of persons as a copyright society subject to such conditions as may be prescribed:

PROVIDED that the Central Government shall not ordinarily register more than one copyright society to do business in respect of the same class of works.

(4) The Central Government may, if it is satisfied copyright society is being managed in a manner detrimental to the interests of the owners of rights concerned, cancel the registration of such society after such inquiry as may be prescribed.

(5) If the Central Government is of the opinion that in the interest of the owners of rights concerned, it is necessary so to do, it may, by order, suspend the registration of such society pending inquiry for such period not exceeding one year as may be specified in such order under sub-section (4) and that government shall appoint an administrator to discharge the functions of the copyright society.

34. Administration of rights of owner by copyright society

(1) Subject to such conditions as may be prescribed,-

(a) a copyright society may accept from an owner of rights exclusive authorisation to administer any right in any work by issue of licences or collection of licence fees or both; and

(b) an owner of rights shall have the right to withdraw such authorisation without prejudice to the rights of the copyright society under any contract.

(2) It shall be competent for a copyrights society to enter into agreement with any foreign society or organisation administering rights corresponding to rights under this Act, to entrust to such foreign society or organisation the administration in any foreign country of rights administered by the said copyright society in India, or for administering in India the rights administered in a foreign country by such foreign society or organisation:

PROVIDED that no such society or organisation shall permit any discrimination in regard to the terms of licence or the distribution of fees collected between rights in Indian and other works.

(3) Subject to such conditions as may be prescribed, a copyright society may-

(i) issue licences under section 30 in respect of any rights under this Act;

(ii) collect fees in pursuance of such licences;

(iii) distribute such fees among owners of rights after making deductions for its own expenses;

(iv) perform any other functions consistent with the provisions of section 35.

34A. Payment of remunerations by copyright society

(1) If the Central Government is of the opinion that a copyright society for a class of work is generally administering the rights of the owners of rights in such work throughout India, it shall appoint that society for the purposes of this section.

(2) The copyright society shall, subject to such rules as may be made in this behalf, frame a scheme for determining the quantum of remuneration payable to individual, copyright owners having regard to the number of copies of the work in circulation:

PROVIDED that such scheme shall restrict payment to the owners of rights whose works have attained a level of circulation which the copyright society considers reasonable.

35. Control over the copyright society by the owner of rights

(1) Every copyright society shall be subject to the collective control of the owners of rights under this Act whose rights it administers (not being owners of rights under this Act administered by a foreign society or organisation referred to in sub-section (2) of section 34) and shall, in such manner as may be prescribed,-

(a) obtain the approval of such owners of rights for its procedures of collection and distribution of fees;

(b) obtain their approval for the utilisation of any amounts collected as fees for any purpose other than distribution to the owner of rights; and

(c) provide to such owners regular, full and detailed information concerning all its activities, in relation to the administration of their rights.

(2) All fees distributed among the owners of rights shall, as far as may be, be distributed in proportion to the actual use of their works.

36. Submission of returns and reports

(1) Every copyright society shall submit to the Registrar of Copyrights such returns as may be prescribed.

(2) Any officer duly authorised by the Central Government in this behalf may call for any report and also call for any records of any copyright society for the purpose of satisfying himself that the fees collected by the society in respect of rights administered by it are being utilised or distributed in accordance with the provisions of this Act.

36A. Rights and liabilities of performing rights societies

Nothing in this Chapter shall affect any rights or liabilities in any work in connection with a performing rights society which had accrued or were incurred on or before the day prior to the commencement of the Copyright (Amendment) Act, 1994, or any legal proceedings in respect of any such rights or liabilities, pending on that day.]

CHAPTER VIII : ⁴[RIGHTS OF BROADCASTING ORGANISATION AND OF PERFORMERS]

⁴[37. Broadcast reproduction right

(1) Every broadcasting organisation shall have a special right to be known as "broadcast reproduction right" in respect of its broadcasts.

(2) The broadcast reproduction right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the broadcast is made.

(3) During the continuance of a broadcast reproduction right in relation to any broadcast, any person who, without the licence of the owner of the right does any of the following acts of the broadcast or any substantial part thereof,-

(a) re-broadcasts the broadcasts; or

(b) causes the broadcast to be heard or seen by the public on payment of any charges; or

(c) makes any sound recording or visual recording of the broadcast; or

(d) makes any reproduction of such sound recording or visual recording where such initial recording was done without licence or, where it was licensed, for any purpose not envisaged by such licence; or

(e) sells or hires to the public, or offers for such sale or hire, any such sound recording or visual recording referred to in clause (c) or clause (d),

shall, subject to the provisions of section 39, be deemed to have infringed the broadcast reproduction right.]

⁴[38. Performer's right

(1) Where any performer appears or engages in any performance, he shall have a special right to be known as the "performer's right" in relation to such performance.

(2) The performer's right shall subsist until ²⁰[fifty years] from the beginning of the calendar year next following the year in which the performance is made.

(3) During the continuance of a performer's right in relation to any performance, any person who, without the consent of the performer, does any of the following acts in respect of the performance or any substantial part thereof, namely,-

(a) makes a sound recording or visual recording of the performance; or

(b) reproduces a sound recording or visual recording of the performance, which sound recording or visual recording was-

(i) made without the performer's consent; or

(ii) made for purposes different from those for which the performer gave his consent; or

(iii) made for purposes different from those referred to in section 39 from a sound recording or visual recording which was made in accordance with section 39; or

(c) broadcasts the performance except where the broadcast is made from a sound recording or visual recording other than one made in accordance with section 39, or is a re-broadcast by the same broadcasting organisation of an earlier broadcast which did not infringe the performer's right; or

(d) communicates the performance to the public otherwise than by broadcast, except where such communication to the public is made from a sound recording or a visual recording or a broadcast,

shall, subject to the provisions of section 39, be deemed to have infringed the performer's right.

(4) Once a performer has consented to the incorporation of his performance in a cinematograph film, the provisions of sub-sections (1), (2) and (3) shall have no further application to such performance.]

4[39. Acts not infringing broadcast reproduction right or performer's right

No broadcast reproduction right or performer's right shall be deemed to be infringed by-

(a) the making of any sound recording or visual recording for the private use of the person making such recording, or solely for purposes of bona fide teaching or research; or

(b) the use, consistent with fair dealing of excerpts of a performance or of a broadcast in the reporting of current events or for bona fide review, teaching or research; or

(c) such other acts, with any necessary adaptations and modifications, which do not constitute infringement of copyright under section 52.

39A. Other provisions applying to broadcast reproduction right and performer's right

Sections 18, 19, 30, 53, 55, 58, 64, 65 and 66 shall, with any necessary adaptations and modifications, apply in relation to the broadcast reproduction right in any broadcast and the performer's right in any performance as they apply in relation to copyright in a work:

PROVIDED that where copyright or performer's right subsists in respect of any work or performance that has been broadcast, no licence to reproduce such broadcast,

shall take effect without the consent of the owner of rights or performer, as the case may be, or both of them.]

CHAPTER IX : INTERNATIONAL COPYRIGHT

40. Power to extend copyright to foreign works

The Central Government may, by order published in the Official Gazette, direct that all or any provisions of this Act shall apply-

- (a) to works first published in any territory outside India to which the order relates in like manner as if they were first published within India;
- (b) to unpublished works, or any class thereof, the authors whereof were at the time of the making of the work, subjects or citizens of a foreign country to which the order relates, in like manner as if the authors were citizens of India;
- (c) in respect of domicile in any territory outside India to which the order relates in like manner as if such domicile were in India;
- (d) to any work of which the author was at the date of the first publication thereof, or, in a case where the author was dead at that date, was at the time of his death, a subject or citizen of a foreign country to which the order relates in like manner as if the author was a citizen of India at that date or time;

and thereupon, subject to the provisions of this Chapter and of the order, this Act shall apply accordingly:

PROVIDED that-

- (i) before making an order under this section in respect of any foreign country (other than a country with which India has entered into a treaty or which is a party to a convention relating to copyright to which India is also a party), the Central Government shall be satisfied that foreign country has made, or has undertaken to make, such provision, if any, as it appears to the Central Government expedient to require for the protection in that country of works entitled to copyright under the provisions of this Act;
- (ii) the order may provide that the provisions of this Act shall apply either generally or in relation to such classes of works or such classes of cases as may be specified in the order;
- (iii) the order may provide that the term of copyright in India shall not exceed that conferred by the law of the country to which the order relates;
- (iv) the order may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities, if any, as may be prescribed by the order;

(v) in applying the provisions of this Act as to ownership of copyright, the order may make such exceptions and modifications as appear necessary, having regard to the law of the foreign country;

(vi) the order may provide that this Act or any part thereof shall not apply to works made before the commencement of the order or that this Act or any part thereof shall not apply to works first published before the commencement of the order.

²¹[40A. Power of Central Government to apply Chapter VIII to broadcasting organisations and performers in certain other countries

(1) If the Central Government is satisfied that a foreign country (other than a country with which India has entered into a treaty or which is a party to a convention relating to rights of broadcasting organisations and performers to which India is also a party) has made or has undertaken to make such provisions, if any, as it appears to the Central Government expedient to require, for the protection in that foreign country, of the rights of broadcasting organisations and performers as is available under this Act, it may, by order published in the Official Gazette, direct that the provisions of Chapter VIII shall apply-

(a) to broadcasting organisations whose headquarters is situated in a country to which the order relates or, the broadcast was transmitted from a transmitter situated in a country to which the order relates as if the headquarters of such organisation were situated in India or such broadcast were made from India;

(b) to performances that took place outside India to which the order relates in like manner as if they took place in India;

(c) to performances that are incorporated in a sound recording published in a country to which the order relates as if it were published in India;

(d) to performances not fixed on a sound recording broadcast by a broadcasting organisation the headquarters of which is located in a country to which the order relates or where the broadcast is transmitted from a transmitter which is situated in a country to which the order relates as if the headquarters of such organisation were situated in India or such broadcast were made from India.

(2) Every order made under sub-section (1) may provide that-

(i) the provisions of Chapter VIII shall apply either generally or in relation to such class or classes of broadcasts or performances or such other class or classes of cases as may be specified in the order;

(ii) the term of the rights of broadcasting organisations and performers in India shall not exceed such term as is conferred by the law of the country to which the order relates;

(iii) the enjoyment of the rights conferred by Chapter VIII shall be subject to the accomplishment of such conditions and formalities, if any, as may be specified in that order;

(iv) Chapter VIII or any part thereof shall not apply to broadcast and performances made before the commencement of the order or that Chapter VIII or any part thereof shall not apply to broadcasts and performances broadcast or performed before the commencement of the order;

(v) in case of ownership of rights of broadcasting organisations and performers, the provisions of Chapter VIII shall apply with such exceptions and modifications as the Central Government may, having regard to the law of the foreign country, consider necessary.]

41. Provisions as to works of certain international organisations

(1) Where-

(a) any work is made or first published by or under the direction or control of any organisation to which this section applies, and

(b) there would, apart from this section, be no copyright in the work in India at the time of the making or, as the case may be, of the first publication thereof, and

(c) either-

(i) the work is published as aforesaid in pursuance of an agreement in that behalf with the author, being an agreement which does not reserve to the author the copyright, if any, in the work, or

(ii) under section 17 any copyright in the work would belong to the organisation;

there shall, by virtue of this section, be copyright in the work throughout India.

(2) Any organisation to which this section applies which at the material time had not the legal capacity of a body corporate shall have and be deemed at all material times to have had the legal capacity of a body corporate for the purpose of holding, dealing with, and enforcing copyright and in connection with all legal proceedings relating to copyright.

(3) The organisations to which this section applies are such organisations as the Central Government may, by order published in the Official Gazette, declare to be organisations of which one or more sovereign powers or the government or governments thereof are members to which it is expedient that this section shall apply.

42. Power to restrict rights in works of foreign authors first published in India

If it appears to the Central Government that a foreign country does not give or has not undertaken to give adequate protection to the works of Indian authors, the Central Government may, by order, published in the Official Gazette, direct that such of the provisions of this Act as confer copyright on works first published in India shall not apply to works, published after the date specified in the order, the authors whereof are subjects or citizens of such foreign country and are not domiciled in India, and thereupon those provisions shall not apply to such works.

²¹[42A. Power to restrict rights of foreign broadcasting organisations and performers

If it appears to the Central Government that a foreign country does not give or has not undertaken to give adequate protection to rights of broadcasting organisations or performers, the Central Government may, by order published in the Official Gazette, direct that such of the provisions of this Act as confer right to broadcasting organisations or performers, as the case may be, shall not apply to broadcasting organisations or performers whereof are based or incorporated in such foreign country or are subjects or citizens of such foreign country and are not incorporated or domiciled in India, and thereupon those provisions shall not apply to such broadcasting organisations or performers.]

43. Orders under this Chapter to be laid before Parliament

Every order made by the Central Government under this Chapter shall, as soon as may be after it is made, be laid before both Houses of Parliament and shall be subject to such modifications as Parliament may make during the session in which it is so laid or the session immediately following.

CHAPTER X : REGISTRATION OF COPYRIGHT

44. Register of Copyrights

There shall be kept at the Copyright Office a register in the prescribed form to be called the Register of Copyrights in which may be entered the names or titles of works and the names and addresses of authors, publishers and owners of copyright and such other particulars as may be prescribed.

45. Entries in register of copyrights

(1) The author or publisher of, or the owner of or other person interested in the copyright in, any work may make an application in the prescribed form accompanied by the prescribed fee to the Registrar of Copyrights for entering particulars of the work in the register of copyrights:

⁵[PROVIDED that in respect of an artistic work which is used or is capable of being used in relation to any goods, the application shall include a statement to that effect and shall be accompanied by a certificate from the Registrar of Trade Marks referred to in section 4 of the Trade and Merchandise Marks Act, 1958 (43 of 1958), to the

effect that no trade mark identical with or deceptively similar to such artistic work has been registered under that Act in the name of, or that no application has been made under that Act for such registration by, any person other than the applicant.]

(2) On receipt of an application in respect of any work under sub-section (1), the Registrar of Copyrights may, after holding such inquiry as he may deem fit, enter the particulars of the work in the register of copyrights.

46. Indexes

There shall be also kept at the copyright office such indexes of the register of copyrights as may be prescribed.

47. Form and inspection of register

The register of copyrights and indexes thereof kept under this Act shall at all reasonable times be open to inspection, and any person shall be entitled to take copies of, or make extracts from, such register or indexes on payment of such fee and subject to such conditions as may be prescribed.

48. Register of copyrights to be prima facie evidence of particulars entered therein

The register of copyrights shall be prima facie evidence of the particulars entered therein and documents purporting to be copies of any entries therein, or extracts therefrom certified by the registrar of copyrights and sealed with the seal of the copyright office shall be admissible in evidence in all courts without further proof or production of the original.

49. Correction of entries in the register of copyrights

The Registrar of Copyrights may, in the prescribed cases and subject to the prescribed conditions, amend or alter the register of copyrights by-

(a) correcting any error in any name, address or particulars; or

(b) correcting any other error which may have arisen therein by accidental slip or omission.

50. Rectification of register by Copyrig