

COPYRIGHT ACT, 2007

Last updated 10
January 2008

The Copyright Act of 2007 passed the Israeli Parliament (the Knesset) on Nov. 19, 2007, and was published in "Reshumot" (official gazette), 2007 Law Statutes of Israel, Issue 2199, at page 34 on Nov. 25, 2007. Pursuant to section 77 the Act will come into force on May 25, 2008.

CHAPTER ONE: Interpretations

Definitions

In this Act -

1.

"Copyright" - as defined in section 11;

"Moral right" – as defined in section 46;

"Recording ", with respect to sounds – means preservation of sounds on media from which such sounds may be played back or copied;

"Architectural work" – a building or other structure, as well as a model of such building or structure;

"Artistic work" – including, drawings, paintings, works of sculpture, engravings, lithography, maps, charts, architectural works, photographic works and works of applied art;

"Dramatic works"- including plays, cinematographic works, musical-dramatic works, choreography, and pantomime;

"Joint work" – a work created jointly by several authors, wherein it is not possible to discern each author's contribution to the work;

"Literary work" – including works expressed in writing, lectures, tables, compilations, and also computer programs.

"Sculptural work" - including moulds or models for sculptures;

"Photographic work" – including works produced by a process similar to photography, but excluding photographs that are part of a cinematographic work;

"Cinematographic work" – including a television work and any work which is substantially similar to a cinematographic work or a television work.

"Compilation"- means a compilation of works including an encyclopedia or an anthology as well as a compilation of data including a database;

"Producer" – with respect to a cinematographic work or a sound recording – the person who is responsible for the arrangements necessary for the making of the cinematographic work or the sound

recording, respectively;

"Infringing copy" – means a copy of a work in which copyright subsists, excluding a building or other structure, being one of the following:

(1) A copy which was made in Israel without the consent of the copyright owner in a manner which constitutes infringement of the reproduction right as stated in section 11(1);

(2) A copy imported into Israel, which, had it been made in Israel its making would have constituted an infringement of the copyright as stated in section 11(1); however a copy which has been made outside of Israel, with the consent of the copyright owner in the country in which it was made, shall not be deemed an infringing copy;

"Publication" of a work – means publishing a reasonable quantity of copies of the work to the public, taking into consideration the character of the work, with the consent of its author, but not including a public performance or broadcast of the work, or the public display of an "artistic work".

"Computer program" – computer program in any form of expression.

"Sound Recording" – means a recording of sounds, excluding a recording of sounds in a cinematographic work.

"The Minister" – the Minister of Justice.

2. Place of first publication

In this Act, the following provisions shall apply as regards the place where a work was first published:

(1) A work published in several countries during a period of 30 days from the date it was first published – shall be deemed to have been published in all these countries simultaneously;

(2) A work first published in Israel and in other countries simultaneously shall be deemed as though it was first published in Israel.

Chapter 2: Conditions For Subsistence of Copyright

3. Exclusiveness of This Law

Copyright shall not subsist in a work other than in accordance with the provisions of this Act.

4. Works in Which Copyright

(a) Copyright shall subsist in the following works:

(1) Original works which are literary works, artistic works,

Subsists

dramatic works or musical works, fixed in any form;

(2) Sound recordings;

provided that the aforesaid works fulfill one of the conditions set forth in section 8 or that copyright subsists in said works pursuant to Order in accordance with section 9.

(b) With respect to sub-section (a), originality of a compilation means the originality in the selection and arrangement of the works or of the data embodied therein.

5. Extent of Copyright in Works

Copyright in a work as stated in section 4 shall not extend to any of the following, however it shall extend to their expression:

- (1) Ideas;
- (2) Procedures and methods of operation;
- (3) Mathematical concepts;
- (4) Facts or data;
- (5) News of the day.

6. Official Publications

Notwithstanding the provisions of section 4, copyright shall not subsist in statutes, regulations, Knesset Protocols and judicial decisions of the courts or of any other government entities having judicial authority according to law.

7. Designs

Notwithstanding the provisions of section 4, copyright shall not subsist in "designs" as defined in the Patents and Designs Ordinance unless the design is not used, nor intended for use in industrial manufacture.; The Minister may prescribe conditions for determining when a design is deemed to be used for industrial manufacture.

8. Points of Attachment to Israel

(a) Copyright shall subsist in works set forth in Section 4(a)(1) if one of the following exists:

- (1) The work was first published in Israel;
- (2) At the time of the work's creation, its author was a citizen of Israel, or his habitual residence was in Israel, regardless of whether the work was published or not.

(b) Without derogation from the provisions of subsection (a), copyright shall subsist –

- (1) In cinematographic works – provided that at the time of its making the headquarters of its producer, or his habitual residence, was in Israel;

(2) In architectural works and other artistic works incorporated in a building or other structure – provided the architectural work, the building or structure, respectively, are located in Israel.

(c) Copyright shall subsist in a sound recording if at the time of its making the producer of the sound recording was a citizen of Israel, or his habitual residence was in Israel, and where the producer was a corporation its headquarters were in Israel; However, the right of reproduction, the right of making available to the public and the right of rental, as stated in sections 11(1), (5) and (7), shall also subsist in sound recordings where the sound recording was first published in Israel.

9. Copyright pursuant to International Treaty

Where Israel makes a treaty with another country regarding copyright, or where Israel accedes to a copyright treaty, the Minister may prescribe, by Order, that works, as set forth in Section 4(a), entitled to protection in Israel pursuant to said treaty, shall be protected pursuant to the provisions of the Order; The protection for the aforesaid works shall not exceed the protection which would have been granted them if the conditions in section 8 were met, unless agreed otherwise in the aforesaid treaty, but not in excess of said treaty.

10. Preservation of Reciprocity

Where the Minister has determined that a particular country does not grant proper protection to works whose authors are citizens of Israel, the Minister may, subject to the consent of the Government, limit by Order the rights prescribed by this law, wholly or in part, with respect to works whose authors are citizens of such a country; Where the Minister has made such an Order, the Order shall be enforceable with respect to works made subsequent to its coming into force.

Chapter C: Subsistence of Copyright

11. What means Copyright

Copyright in a work means the exclusive right to do with the work, or a substantial part thereof, one or more of the foregoing acts, in accordance with the kind of the work:

- (1) Reproduction as stated in section 12 – with respect to all categories of works;
- (2) Publication – in respect of a work not yet published;
- (3) Public performance as stated in section 13 – in respect of a literary work, dramatic work, musical work and sound recording;
- (4) Broadcasting as stated in section 14 – in respect of all kinds of works;

(5) Making a work available to the public as stated in section 15 – in respect of all kinds of works;

(6) Making of a derivative work as stated in section 16 and the doing of any acts set forth in sections (1) to (5) above in respect of the aforesaid derivative work – with respect to a literary work, artistic work, dramatic work and musical work;

(7) Rental as stated in section 17 – in respect of a sound recording, cinematographic work and computer program.

12. Reproduction

The reproduction of a work means the making of a copy of the work, in any material form, including –

(1) Storage of a work through electronic means or any other technological means;

(2) Making a three dimensional copy of a two dimensional work;

(3) Making a two dimensional copy of a three dimensional work;

(4) Making a temporary copy of a work.

13. Public Performance

The public performance of a work means the aural playing or staging of it publicly, either directly or through use of a device.

14. Broadcast

Broadcast of a work means the transmission thereof, by wire or wireless means, of sounds, images or a combination of sounds and images, which contained in a work, to the public.

15. Making Available to the Public

Making a work available to the public means the doing of an act in relation to a work that shall enable members of the public to access the work from a place and at time chosen by them.

16. Derivative Works

Making a derivative work means the making of an original work which is substantially based upon another work, such as a translation or adaptation.

17. Rental

(a) Rental of a work means the rental of physical copies of the work to the public, for a commercial purpose, but does not include the rental of a computer program or sound recording which constitutes an integral part of another object where such other object is the primary object of the rental.

(b) For purposes of sub-section (a), renting by a public library or a library of an educational institution shall not be deemed to be renting for commercial purposes; The Minister may prescribe types

of public libraries and types of educational institutions to which the provisions of this sub-section shall apply.

Chapter Four: Permitted Uses

18. Permitted Uses

Notwithstanding the provisions of section 11, the doing of the actions specified in sections 19 to 30 is permitted subject to the conditions specified respectively in the aforesaid sections and for the purpose of carrying out the objectives specified therein, without the consent of the right holder or payment, however with respect to the activities specified in section 32 – upon payment and in accordance with the provisions of that section.

19. Fair Use

(a) Fair use of a work is permitted for purposes such as: private study, research, criticism, review, journalistic reporting, quotation, or instruction and examination by an educational institution.

(b) In determining whether a use made of a work is fair within the meaning of this section the factors to be considered shall include, inter alia, all of the following:

(1) The purpose and character of the use;

(2) The character of the work used;

(3) The scope of the use, quantitatively and qualitatively, in relation to the work as a whole;

(4) The impact of the use on the value of the work and its potential market.

(c) The Minister may make regulations prescribing conditions under which a use shall be deemed a fair use.

20. Use of works in juridical or administrative procedures

Use of a work in juridical or administrative procedures according to law, including reporting on such proceedings, is permitted to the extent that is justified taking into consideration the purpose of the aforesaid use.

21. Reproduction of a work deposited for public inspection

(a) The copying of a work that is accessible to the public by law is permitted if consistent with the purpose for which the work was made accessible, and to a justifiable extent taking into consideration the purpose of the said use.

(b) The provisions in sub-section (a) shall not apply with respect to works deposited in accordance with The Books Act (Obligation to Deposit and Cite Details), 2000.

22. Incidental Use of a Work

An incidental use of a work by way of including it in a photographic work, in a cinematographic work or in a sound recording, as well as the use of a such work in which the work was thus incidentally contained, is permitted; In this matter the deliberate inclusion of a musical work, including its accompanying lyrics, or of a sound recording embodying such musical work, in another work, shall not be deemed to be an incidental use.

23. Broadcast or copying of work in public place

Broadcasting, or copying by way of photography, drawing, sketch or similar visual description, of an architectural work, a work of sculpture or work of applied art, are permitted where the aforesaid work is permanently situated in a public place.

24. Computer Programs

(a) Copying of a computer program for purposes of back up is permitted for a person who possesses an authorized copy of the computer program; A person holding such a copy shall destroy it once it is no longer needed to serve the purpose for which it was made.

(b) Copying of a computer program for purposes of maintenance of an authorized copy of the program or of a computer system, or for purposes of providing service to a person in possession of an authorized copy of the computer program, is permitted, provided that it is necessary for using the program.

(c) Copying of a computer program, or making a derivative work there from is permitted for a person who possesses an authorized copy of the computer program, for the following purposes and to the extent necessary to achieve said purposes:

- (1) Use of the computer program for purposes for which it was intended, including correction of errors in the computer program or making it interoperable with a computer system or with another computer program;
- (2) Examination of the data security in the program, correction of security breaches and protection from such breaches;
- (3) obtaining information which is needed to adapt a different and independently developed computer system or program, in such a way that it will be interoperable with the computer

program.

(d) The provisions of sub-section (c) shall not apply with respect to the copying of a computer program or the making of a derivative work there from, as stated in said sub-section, if the information which has been obtained through the aforementioned means was used in a manner set forth below, or where such information was readily discernable without use of the aforesaid means:

- (1) The said information is transmitted to another person for a purpose different than the purposes set forth in sub-section (c);
- (2) The said information is used to make a different computer program which infringes copyright in the said computer program.

(e) In this section, "authorized copy" of a computer program means a copy of the computer program which was made by the copyright holder therein or with his consent.

25. Recording for Purposes of Broadcast

- (a) Recording of a work by a person permitted to broadcast it is permitted if the copy is made solely for use in his broadcasts.
- (b) A person who had recorded a work in accordance with the provisions of sub-section (a) shall destroy the recording within a period of six months from the date of the first broadcast of the work, or until a later period if so prescribed by law, or until a later period if so agreed upon with the owner of the copyright of the recorded work.
- (c) Notwithstanding the provisions of sub-section (b), preservation of a recording is permitted –
 - (1) for archival purposes;
 - (2) with regard to a person permitted to broadcast the work - for as long as such person is permitted to make such broadcasts.

26. Temporary Copies

The transient copying, including incidental copying, of a work, is permitted if such is an integral part of a technological process whose only purpose is to enable transmission of a work as between two parties, through a communications network, by an intermediary entity, or to enable any other lawful use of the work, provided the said copy does not have significant economic value in itself.

27. Additional artistic work made by the author

Making a new artistic work which comprises a partial copying of an earlier work, or a derivative work from an earlier work, as well as any use of the said new work, are permitted to the author of the said earlier artistic work even where said author is not the owner of the copyright in the earlier artistic work, provided the new work does not repeat the essence of the earlier work or constitute an imitation thereof.

28. Renovation and Reconstruction of Buildings

Use of the following works is permitted for the purpose of renovation or reconstruction of a building or other structure:

- (1) The architectural work which is the aforesaid building or structure, or a model thereof.
- (2) The drawings and the plans that were used with the consent of the owner of the copyright therein, at the time the said building or structure was originally constructed.

29. Public Performance in an Educational Institution

The public performance of a work is permitted in the course of the educational activity of educational institutions, of the type prescribed by the Minister, where such performance is made by the employees of the educational institution, or by the students studying therein, provided that said public performance is made for an audience limited to employees or students of the educational institution, the relatives of the students or other people directly connected with the activity of said institution, and to them alone; However the screening of a cinematographic work is permitted according to this section if done solely for purposes of teaching and examination by an educational institution.

30. Permitted Uses in Libraries and Archives

(a) Copying of a work, a copy of which is already in the permanent collection of a library or archive of the type of libraries or archives as prescribed by the Minister, is permitted for the following purposes, provided that it is not possible to purchase an additional copy of said work within a reasonable period of time and on reasonable terms:

- (1) To make a reserve copy, in any format, of a work already in the possession of the aforesaid library or archive, provided that the said reserve copy is not used as an additional copy to the copies in the library;
- (2) To replace a copy of the work held by the aforesaid library or the archive, which has been lost, destroyed or become unusable;
- (3) To replace a copy of the work, that had been in

the permanent collection of another library or archive and was lost, destroyed or has become unusable.

(b) Copying of a work, a copy of which is held in a library or archive as prescribed in sub-section (a), for a person requesting such copy, is permitted, provided that the request for such reproduction is made by a person, who, if he had made the copy himself, would be permitted by law to do so; The Minister may prescribe an application form for use by libraries or archives for purposes of this sub-section.

(c) Copying of a work by entities of the type prescribed by the Minister, for purposes of preservation, is permitted; The Minister may prescribe types of works which will be subject to this sub-section, conditions for the execution of copying as well as conditions for the grant of public access to copies that were made in accordance with this sub-section.

31. Regulations regarding Educational Institutions, Libraries and Archives

The Minister may prescribe different conditions for the applicability of sections 29 and 30, generally or with respect to particular types of educational institutions, libraries or archives, taking into consideration the character of their respective activities.

32. Manufacture of sound recordings as against royalty payment

(a) Despite the provisions of section 11, reproduction of a musical work in a sound recording is permitted, provided the following conditions are met, even without the consent of the copyright owner:

- (1) The musical work had been previously recorded, with the consent of the copyright owner, in a sound recording that was published for commercial purposes (in this section - the Former Sound Recording);
- (2) The musical work was reproduced in its entirety, except for modifications necessary for adaptation of the reproduction and modifications necessary for the making of the reproduction, or where such modifications were made in the Former Sound Recording;
- (3) The person who makes the copy has so informed the copyright owner prior to the making of the copy;
- (4) The person making the copy has paid equitable royalties as agreed with the owner of the copyright; and in absence of agreement – as decided by the Court;
- (5) The copies are neither used, nor intended for use in commercial advertising;

(b) The Minister may prescribe regulations as regards the following matters:

(1) Methods for informing the copyright owner as stated in sub-section (a)(3);

(2) Considerations and parameters for the determining of equitable royalties by the Court as stated in subsection (a)(4).

(c) In this section, "musical work" – including the accompanying words, if any, in the Former Sound Recording.

CHAPTER 5: Ownership of Copyright

33. The first owner of Copyright

Subject to the provisions of this chapter-

(1) The author of a work is the first owner of copyright in the work;

(2) The producer of a sound recording is the first owner of copyright in a sound recording.

34. Works Created by Employees

The employer is the first owner of copyright in a work made by an employee in the course of his service and during the period of his service, unless otherwise agreed.

35. Commissioned Works

(a) In a work made pursuant to a commission, the first owner of the copyright therein, wholly or partially, shall be the author, unless otherwise agreed as between the commissioning party and the author, expressly or impliedly.

(b) In a work which is a portrait or a photograph of a family event or other private event, made pursuant to a commission, the first owner of the copyright therein shall be the commissioning party.

36. State Ownership of Works

The state shall be the first owner of a work made by, or commissioned for, the State or by an employee of the State in consequence of his service and during the period of his service; In this section, "State employee" – includes soldiers, policemen and any other person who holds a position according to a statute in a State entity or institution.

37. Assignment and Licence of Copyright

(a) Copyright may be assigned by contract or by operation of law and the owner of a copyright may grant an exclusive license or non-exclusive license with respect to the copyright.

(b) Assignment of the copyright or the grant of a license, as stated in sub-section (a), may refer to the copyright in whole or in

part, and it can be limited to a certain territory, period of time, or to specific acts with respect to the work.

(c) A contract for the assignment of copyright or the grant of an exclusive license therein shall require a written document.

(d) In this section, "exclusive license" – means a license granting its holder the exclusive right to do any acts as set forth in Section 11 specified by the license, and restricts the owner of the copyright from doing those acts or from permitting others to perform those acts.

Chapter 6: Duration of Copyright

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| 38. Duration of Copyright | Copyright in a work shall subsist during the life of its author and for 70 years after his death, subject to the provisions in this chapter. |
| 39. Duration of Copyright in a Joint Work | Copyright in a joint work shall subsist for the duration of the life of its longest surviving joint author and for 70 years after his death. |
| 40. Duration of Copyright in Work Published Anonymously | If no name of a person appears on a work as the author of such work, nor is the author of such work commonly known to the public, or appears on such work a pseudonym of a person not commonly known to the public, , then copyright in such a work shall subsist for a period of 70 years from the date such work was first published; If such a work was not published until the end of 70 years from the date of its creation, the copyright therein shall subsist for a period of 70 years from the date of its creation; however where the author's identity becomes publicly known during the period of copyright, then the provisions of sections 38 or 39, respectively, shall apply. |
| 41. Duration of Copyright in Sound Recordings | Copyright in a sound recording shall subsist for a period of 50 years from the date of its making. |
| 42. Duration of Copyright in State Works | Copyright in a work in which the State is the first owner of the copyright in accordance with the provisions of Chapter 5 shall last for a period of 50 years from the date of its making. |
| 43. Expiration Period | The period of copyright in a work shall end on the 31 st of December of the year in which such copyright is set to expire in accordance with the provisions of this chapter. |

**44. Duration of
Copyright in
Country of
Origin**

(a) The period of copyright in a work listed below shall not be longer than the period of copyright prescribed for such work in the law of its country of origin:

(1) A work which was first published in Israel and in other countries simultaneously, as set forth in section 2, in which copyright subsists solely due to the existence of the condition set forth in section 8(1)(a);

(2) A work in which copyright subsists pursuant to an Order in accordance with section 9, unless otherwise prescribed in the Order.

(b) In this section –

"The country of origin" of a work –

(1) For a work first published in a single Member State – the Member State;

(2) For a work first published simultaneously in a number of Member States wherein the periods of copyright are different – the State where the period of copyright is the shortest;

(3) For a work first published simultaneously in a Member State and a non Member State – the Member State:

(4) For an unpublished work, or first published in a non Member State, without simultaneous publication in a Member State – the Member State where the author is a national or makes his habitual residence; however –

(a) When the aforesaid work is a cinematographic work, the country of origin shall be the Member State in which located its producer's headquarters or his habitual residence.

(b) When the aforesaid work is an architectural work situated in a Member State or a separate artistic work incorporated in a building or other structure situated in a Member State, the country of origin shall be the country where the architectural creation, the building or the structure are situated, as the case may be;

"Work" – a work as stated in section 4(a)(1);

"Member State" – a State being a party to a treaty regarding which an Order has been prescribed pursuant to the provisions of section 9.

Chapter 7: Moral Right

45. Moral Right as Personal Right

(a) The author of an artistic work, a dramatic work, a musical work or a literary work, excepting computer programs, in which copyright subsists, shall have moral rights in relation to his work, during the entire period of copyright in that work.

(b) The moral right is personal and not transferable, and shall be available to the author even if said author does not have copyright in the work or if he has assigned the copyright in the work, partly or wholly, to another person.

46. Moral Right Defined

A moral right in relation to a work is the right of its author –

(1) To have his name identified with his work to the extent and in the manner suitable in the circumstances;

(2) That no distortion shall be made of his work, nor mutilation or other modification, or any other derogatory act in relation to the work, where any aforesaid act would be prejudicial to his honor or reputation.

Chapter 8 – Infringement and Remedies

47. Infringement of Copyright

A person who does in relation to a work, any of the acts specified in section 11, or who authorizes another person to perform any such act, without the consent of the copyright owner, infringes the copyright, unless such act is permitted pursuant to the provisions of Chapter 4.

48. Indirect Infringement

A person who does one of the foregoing acts with respect to an infringing copy of a work, infringes the copyright, if at the time such act was done he knows, or he should have known, that said copy is an infringing copy:

(1) Sells or lets for rental said infringing copy, including offering or displaying for sale or rental.

(2) Possesses said infringing copy for a commercial purpose;

(3) Distributes said infringing copy on a commercial scale;

(4) Exhibits said infringing copy to the public in a commercial manner;

(5) Imports into Israel said infringing copy that is not for personal use as provided for in section 129 of the Customs Ordinance.

49. Public Performance in a Place of Public

A person who permits another person, for financial gain, to publicly perform a work in a place of public entertainment, without the consent of the owner of the copyright therein, infringes the

Entertainment

copyright, unless he did not know, nor should have known, that said performance would constitute an infringement; In this section, "place of public entertainment" means a place used for entertainment and cultural performances, including catering halls, outdoor function areas, restaurants, coffee shops or clubs.

50. Infringement of Moral Right

(a) A person who does in relation to a work, an act which is restricted by the moral right, infringes the said moral right.

(b) Despite the provisions in sub-section (a), doing an act restricted by section 46(2) shall not constitute an infringement of the said moral right where the act was reasonable in the circumstances of the case.

(c) In respect of sub-section (b), the court may take into consideration, inter alia, the following:

- (1) The character of the work in respect of which the act was done;
- (2) The nature of the act and its purpose;
- (3) That the work had been made by an employee in the course of his employment or pursuant to commission;
- (4) Customary behavior in a particular sector;
- (5) The need for doing the act versus the damage caused to the author by the act.

51. Indirect Infringement of Moral Right

A person who does one of the foregoing acts with respect to a copy of a work, excepting a building or other structure, and such act constitutes an infringement of the moral right set forth in section 46(2), infringes the moral right, if at the time of doing such act he knows, or should have known, that such copy infringes the aforesaid moral right:

- (1) Sells or lets for rental said copy, including offering or displaying for sale or rental.
- (2) Possesses said copy for a commercial purpose;
- (3) Distributes said copy on a commercial scale;
- (4) Exhibits said copy to the public in a commercial manner.

52. Infringement of copyright or moral right is a civil wrong

Infringement of copyright or moral right is a civil wrong and the provisions of the Ordinance on Torts (New Version), shall apply mutatis mutandis subject to the provisions of this Act.

53. Injunction for

In an action for copyright infringement the claimant shall be entitled

copyright
infringement

to injunctive relief, unless the court finds that there are reasons which justify not doing so.

**54. Action for
Copyright
Infringement**

(a) A claim for the infringement of copyright may be commenced by the owner of the copyright, and if an exclusive license has been granted in respect of it as defined in section 37(d) – such claim may also be commenced by the exclusive licensee.

(b) A claimant filing a claim as stated in sub-section (a), shall join as a party any person entitled to commence a claim according to the provisions of that sub-section, however the court may, at the claimant's request, exempt from the aforesaid duty to join a party.

**55. Action for
Moral Right
Infringement**

A claim for violation of the moral right may be commenced by the author, and if the infringement occurred after his death – then by his relatives; In this matter, "relatives" – means a spouse, descendant, parent or sibling.

**56. Damages
without Proof of
Injury**

(a) Where a copyright or moral right has been infringed, the court may, at the claimant's request, award to the claimant, in respect of each infringement, damages without proof of injury, in an amount not exceeding NIS 100,000.

(b) In awarding damages pursuant to the provisions of sub-section (a), the court may consider, inter alia, the following considerations:

- (1) The scope of the infringement;
- (2) The duration during which the infringement took place;
- (3) The severity of the infringement;
- (4) The actual injury caused to the claimant according to the assessment of the court;
- (5) The benefit derived by the defendant from the infringement, according to the assessment of the court;
- (6) The character of the defendant's activity;
- (7) The nature of the relationship between the defendant and the claimant.
- (8) Good faith of the defendant.

(c) For purposes of this section infringements carried out as part of a set of activities shall be deemed as a single infringement.

(d) The Minister may, by Order, change the amount prescribed in sub-section (a).

- 57. Accounting** In a claim for the infringement of copyright or moral right, the court may order the defendant to give the claimant a detailed report of the infringement; The Minister may prescribe provisions for the making of reports pursuant to this section.
- 58. Innocent Infringer** Where a copyright or a moral right has been infringed, but the infringer did not know, or could not have known, at the time of the infringement, that copyright subsists in the work, he shall not be obligated to pay compensation in respect of the said infringement.
- 59. Infringement of Copyright in a Building or other structure** Where the construction of a building or other structure has begun, and there is an infringement of copyright or moral right in that building or other structure, or there will be an infringement of copyright or moral right upon the completion of said building or other structure, the complainant shall not, as a result of said infringement, be entitled to an Order enjoining completion of the construction or to an Order of demolition.
- 60. Disposition of Infringing Copies**
- (a) Upon the completion of a proceeding in an action for infringement of copyright, the court may make an order for -
- (1) The destruction of the infringing copies, or any other act thereon;
 - (2) The transfer of the ownership of the infringing copies to the claimant, if he has so requested, and the court may, if it finds that the claimant is likely to make use of those infringing copies, order the complainant to make payment to the defendant in the manner which it shall prescribe.
- (b) A party filing an application with the Court pursuant to sub-section (a) shall advise the Israel Police of such, in the manner to be prescribed by the Minister, and the court shall not hear the application without first providing the Israel Police with an opportunity to state its claims.
- (c) The provisions of sub-section (a) shall apply with respect to infringing copies in the possession of a person who did not himself infringe the copyright therein, subject to the provisions of section 34 of the Sales Act, 1968, however where such provisions will be applicable, the possessor of the said infringing copies shall not be entitled to trade in said infringing copies.

CHAPTER 9: CRIMINAL OFFENSES

- 61. Offenses**
- (a) A person shall not make an infringing copy for purposes of

trading therein.

- (b) A person shall not import into Israel an infringing copy of a work for purposes of trading therein.
- (c) A person shall not engage in the selling, letting for hire or distributing of an infringing copy of a work.
- (d) A person shall not sell, let for hire or distribute infringing copies of a work on a commercial scale.
- (e) A person shall not possess infringing copies of a work for purposes of trading therein.
- (f) A person shall not make or possess an object designed for the making of copies in contravention of sub-section (a).

62. Penalties

- (a) A person who does one of the following, shall be liable to up to five years imprisonment or fine in the amount of ten times the fine provided for in section 61(a)(4) of the Penal Act, 5737-1977 (hereinafter referred to as “the Penal Act”):
 - (1) Makes an infringing copy for the purpose of trading therein;
 - (2) Imports to Israel an infringing copy of a work for the purpose of trading therein.
- (b) A person who does one of the following, shall be liable to up to three years imprisonment or fine in the amount of seven times the fine provided for in section 61(a)(4) of the Penal Act:
 - (1) Engages in the sale, letting for hire or distribution of an infringing copy of a work;
 - (2) Sells, lets for hire or distributes infringing copies of a work on a commercial scale;
 - (3) Possesses an infringing copy of a work for the purposes of trading therein.
- (c) A person producing or in possession of an object designated for the production of copies of a work for the purpose of committing an offence under sub-section (a)(1) shall be liable to imprisonment for a term of one year or twice the fine stated in section 61(a)(4) of the Penal Act.
- (d) Where an offense under this section has been committed by a corporate entity, - such corporate entity shall be liable to double the fine provided for that offence.

63. Responsibility of Senior Officer

- (a) A senior officer of a corporate entity is obliged to supervise and take any action necessary to prevent any of the offences specified in section 61 (hereinafter - “an offence”) by a corporate body or any of

its employees; Where such senior officer is in breach of his or her aforesaid obligation he shall be liable to the fine stated in section 61(a)(4) of the Penal Act.

(b) Where an offence has been committed by a corporate entity or any of its employees, there is a presumption that the senior officer was in breach of his obligation under sub-section (a), unless it is proved that he took any action necessary to perform his aforesaid obligation.

(c) For the purposes of this section, “senior officer” means an active director of a corporate entity, a partner - excluding a limited partner - and an officer responsible on behalf of the corporate entity for the field in question in which the offence was committed.

CHAPTER 10: MISCELLANEOUS

64. Presumptions

The presumptions set forth hereunder shall apply to any legal proceeding, civil or criminal, involving an infringement of copyright or moral right, unless proved otherwise:

(1) Where the name of a person appears on the work in the usual manner as the author of the work, there is a presumption that such person is the author of the work and the owner of the copyright therein; the said presumption shall also apply in respect of the pseudonym of any person, provided that the identity of the owner of the pseudonym is publicly known;

(2) Where the name of a person as the author of the work does not appear on the work and its author is not known, or the pseudonym of a person whose identity is not publicly known appears thereon, there is a presumption that the person whose name appears on the work in the usual manner as the publisher of the work is the owner of the copyright therein.

(3) Where the name of a person appears on a cinematographic work in the usual manner as the producer of the work, there is a presumption that such person is the producer of the work.

65. Detention by Customs

(a) The owner of copyright in a work, whose rights have been infringed or where there is a reasonable suspicion that such rights will be infringed, may give notice in writing to the Director of Customs to the effect that he is the owner of copyright in the work, and request the Director to suspend the release of the goods that he claims are infringing copies of the work and to treat them as goods the import of which is prohibited under the Customs Ordinance.

(b) A notice pursuant to sub-section (a) shall include one of the following:

(1) An example of a non-infringing copy of the work in which the

applicant holds copyright, and in respect of which the said copyright holder makes notice of the importation of infringing copies;

(2) A catalog or any other document that enables the Customs Director to compare the work with the allegedly infringing copies.

(c) The owner of the copyright shall provide the Customs Director with the following information, to the extent that he has knowledge of it:

(1) The number of parcels to be received;

(2) Sufficient notation of means of importation or the name of the ship bringing the infringing copies;

(3) The date on which the infringing copies are meant to arrive in Israel.

(d) The copyright owner must provide the Customs Director with primary evidence, and a personal guarantee, as prescribed by the Customs Director, in order to cover all expenses connected with detaining goods, or in order to compensate for any damage caused as a result of the detaining of goods, should it become apparent that the detention of the goods was not justified, and to pay any fee prescribed in this connection as required under the Customs Ordinance.

(e) The provisions of this section shall not apply to infringing copies imported for personal use as defined in section 129 of the Customs Ordinance.

(f) In this section, "Director of Customs" means the director as so defined in the Customs Ordinance.

**66. Enforceable
as against the
State**

This Act shall be applicable to the State.

**67.
Implementation
and Regulations**

(a) The Minister is responsible for the carrying out of the provisions of this law and he may prescribe regulations for its implementation.

(b) Making of regulations in accordance with sections 17, 29, 30(a) and (b), and 31 will require approval as follows:

(1) regarding educational institutions - the Minister of Education;

(2) regarding libraries – the minister responsible for carrying out the Public Libraries Act, 1975 and the Minister of Education;

(3) regarding archives – the minister responsible for carrying out the Archives Act, 1955.

(c) Regulations and Orders in accordance with sections 7, 9, 17, 19, 30(c), 31 and 56(d) shall require the approval of the Knesset Economics Committee.

CHAPTER 11: Ancillary Amendments

68. Cancellation of His Majesty's Order on the Copyright Law 1911 (Implementation in the Land of Israel)

His Majesty's Order on the Copyright act 1911 (extension to Palestine), 1924 – is repealed, and the Copyright Act, 1911, will no longer be valid in Israel.

69. Amendment of Copyright Ordinance

Sections 1 to 3a and 3f to 15 of the Copyright Ordinance – are repealed.

70. Amendment of Patent and Designs Ordinance

In the Patent and Designs Ordinance –

- (1) In section 2, the term "copyright" shall be replaced by the term "design right";
- (2) In section 31, the term "copyright" shall be replaced by the term "design right";
- (3) In section 33 -
 - (a) In subsection (1), the term "copyright" shall be replaced by the term "design right";
 - (b) In subsection (2) to (4), the term "copyright" shall be replaced by the term "design right";
- (4) In section 35 -
 - (a) In subsection (1), the term "copyright" shall be replaced by the term "design right";
 - (b) In subsection (2), the term "copyright" shall be replaced by the term "design right";
- (5) In section 37(1), the term "copyright" shall be replaced by the term "design right";
- (6) In section 43 -
 - (a) In subsection (1), the term "copyright" shall be replaced by the term "design right";
 - (b) In subsection (3), the term "copyright" shall be replaced by the term "design right";
- (7) In section 51(1), the term "copyright" shall be replaced by the term "design right";
- (8) In section 55(4), the term "copyright" shall be replaced by the term "design right";

71. **Amendment of Customs Ordinance** Section 200a(a) of Customs Ordinance –
- (1) At the beginning, instead of "section 7d of the Copyright Ordinance" it shall read "in section 65 of the Copyright ACT-2007 (hereinafter -the "Copyright Act");
- (2) In section (1) instead of "the duplications" it shall read "the copies";
- (3) In section (3), instead of "section 7d of the Copyright Ordinance" shall be "section 65 of the Copyright Act"
72. **Amendment of Criminal Procedure Law** In the Criminal Procedure Act (Combined Version) 1982, in the Second Schedule, in item (3), instead of "section 10(c) and (d) to the Copyright Ordinance" shall be replaced by the words "section 61(c),(d), and (e) to the Copyright Act, 2007".
73. **Amendment of Courts Law** In the Courts Act (Combined Version) 1984, sub-sections (a) and (b) of Section 40(4) shall be replaced by:
- "(a) The Copyright Act – 2007"
74. **Amendment of the Law Against Money Laundering** In the Act Prohibiting Money Laundering, 2000, First Schedule, item (16), the words "the Copyright Ordinance" shall be replaced by the words "the Copyright Act – 2007".
75. **Amendment of Law Against Organized Crime** In the Act on Combat against Criminal Organizations 2003, First Schedule, item 4, the words "section 10(c) and (d) of Copyright Ordinance" shall be replaced by the words "section 61(c),(d) and (e) of the Copyright Act – 2007".
76. **Amendment of Knesset Broadcast Television Law** In the TV Broadcasts from the Knesset Act 2003, section 15, in the definition of "intellectual property", instead of the words "copyright according to Copyright Act 1911, and the Copyright Ordinance" shall come the words "copyright according to the Copyright Act – 2007".
- Chapter L: Commencement, applicability and transition provisions**
77. **Commencement** The commencement of this law shall be six months from the day of its publication (hereinafter - the commencement date).
78. (a) The provisions of this Act shall also be applicable with

Applicability and Transition Provisions

respect to works made prior to the date of commencement of this Act, subject to the provisions in sub-sections (b) to (j).

(b) The subsistence of copyright in accordance with the provisions of Chapter 2 of this Act will not apply with respect to works made prior to the commencement of this Act in which copyright did not subsist under the prior law (hereinafter in this section – the Former Law); Nevertheless, there is nothing in the provisions of this sub-section to prevent the subsistence of copyright in accordance with this Law in an aforesaid work, if said work, from the commencement date and on, met the conditions set forth in Section 8, or in an Order made in accordance with Section 9.

(c) Acts done in relation to a work before the commencement of this Law, shall not be subject to the provisions in Chapter 7 in respect of infringement of copyright or moral right and as regards remedies for such infringement, rather for these purposes the Former Law shall continue to apply; however an act which is not an infringement of copyright or of moral right according to this Act, shall not be actionable according to the provisions in the Former Law.

(d) A copy of a work made, or imported into Israel, before the date of commencement shall be deemed an "infringing copy" for purposes of this Act, if it would have been deemed an infringing copy prior to the commencement of this Act pursuant to section 10(e) of the Copyright Ordinance prior to the commencement date of this Act.

(e) The provisions in sections 33 to 36 shall not apply with respect to works made prior to the commencement date and the provisions of the Former Law in this regard shall remain valid.

(f) The provisions of Section 37 shall not apply with respect to assignments of copyright occurring prior to the commencement of this Act or with respect to licenses granted prior to the commencement of this Act, and the Former Law shall continue to be in force with regard to these issues.

(g) The provisions of Section 54 shall not apply in respect of proceedings which were commenced and pending prior to the commencement of this law, and the Former Law shall continue to be in force with regard to these issues.

(h) Copyright in the rental of a work as stated in section 11(7), in relation to a computer program, shall not apply with respect to a copy of a computer program acquired before the 1st of January 2000.

(i) In respect of the identity of an author of a photographic work made prior to the commencement date of this Act, and in respect of the duration of copyright in such photographic work, the former law shall apply.

(j) In respect of a sound recording made prior to the commencement of this law, the definition of "producer" as per

Section 1, shall not apply, and the producer shall be the person that would have been deemed the author of the work in accordance with section 19(1) of Copyright Act 1911.

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