

Unofficial Translation of the Israel Copyright Ordinance as amended to August 2005. To the extent that this version differs from the Hebrew version the Hebrew version will be controlling.

(Note: The principle primary legislation governing copyright and related rights in Israel consists of the Copyright Law, 1911 together with the Copyright Ordinance and the Performers' and Broadcasters' Rights Law.)

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## **COPYRIGHT ORDINANCE**

Whereas, by an order of His Majesty in Council, dated March 21, 1924, the provision of an act of the Imperial Parliament of Great Britain, known as the Copyright Act, 1911, were extended to Palestine, and by Proclamation of the High Commissioner dated April 23, 1924, the said act has been brought into force in Palestine as from March 21, 1924; and whereas it is desirable to make provision for certain matters incidental to the application of the said act; be it enacted by the High Commissioner for Palestine with the advice of the Advisory Council thereof:-

### **Short title**

1. This ordinance may be cited as the Copyright Ordinance.

### **Applicability of Copyright Act to importation of copyright works into Israel**

2. *Repealed 1999.*

### **Protection of computer software – (Amended 1999)**

2A. For purposes of copyright, computer software shall be treated like a literary work, within the meaning of that term in the Copyright Law, 1911, whether in source or object code.

### **Offenses – Amended 2002.**

3. (1) If a person knowingly does one of the following, he shall be liable to three years imprisonment and to a fine seven times the fine prescribed in section 61(a) (4) of the Penal Law 5737-1977:

(One) *Repealed 2002.*

- (Two) *Repealed 2002.*  
(Three) *Repealed 2002.*  
(Four) *Repealed 2002.*  
(Five) *Repealed 2002.*  
(Six) for purposes of personal gain - causes the public exhibition of any work under copyright without the consent of the owner of the copyright.

- (2) *Repealed.*  
(3) *Repealed 2002*  
(4) *Repealed 2002*  
(5) *Repealed 2002*  
(6) *Repealed 2002*

### **Compensation without proof of damage**

3A. If the damage caused by a copyright infringement has not been proven, then the Court may, on the application of the plaintiff, award in respect of every infringement compensation in an amount of not less than NIS 10,000 and not more than NS 20,000; the Minister of Justice may, with the approval of the Knesset Constitution, Legislation and Justice Committee, change the said amounts.

### **Definitions**

- 3B. In sections 3C to 3F -  
“copyright” - within its meaning in section 1(2) of the Copyright Law 1911;  
“performers’ right” - within its meaning in the Performers’ Rights Law 5744-1984;  
“Royalties Collecting Company” - any of the following, provided they which were approved for purposes of this Law by the Minister of Education, Culture and Sport:
- (1) a corporate entity that represents a majority of copyright owners;
  - (2) a corporate entity that represents a majority of owners of performers’ rights;
  - (3) a corporate entity that represents a majority of producers of aural works and a corporate entity that represents a majority of producers of visual works, provided that the aforesaid entities operate in conjunction.
- “recording” - preservation of a performance by any means that makes it possible to see, hear or copy the work;  
“tape cassette” - a device on which there is no recording and on which an audio or video recording can be recorded, other than a device intended for use in a computer;  
“copying” - copying a recording or a substantial part of it.

### **Private and Home Use**

3C. Recording or copying a work on a cassette for private and home, but not commercial uses, shall not be a violation of copyright and performers' rights.

### **Payment to owners of copyright and performers' rights**

3D. (a) The Government shall compensate the copyright owners and the owners of performers' rights for the loss of income and violation of rights caused to them by the recording and copying of cassette for private and domestic use under section 3C.

(Two) The Government shall transmit to the royalties companies every year an amount equal to 5% of the retail price without VAT of all cassettes sold in Israel for private and domestic use during the preceding year.

(Three) The amount said in subsection (b) shall be divided equally between the three royalty companies enumerated in paragraphs (1), (2) and (3) of section 3B.

(Four) A committee composed of a representative of the Minister of Finance, a representative of the Minister of Justice and a representative of the Minister of Education, Culture and Sport shall prescribe the data required for determination of the said amount.

### **Division of royalties**

3E. In the case of disagreement on the division of royalties, the Court shall decide the matter; to the Court hearings shall be summoned, in ways to be prescribed by regulations, representatives of the royalties companies, a representative of the Ministry of Education, Culture and Sport and the author or performer, in respect of whose royalties there is a disagreement, as the case may be; the Court's decision shall bind all royalties companies and all holders of copyright and performers' rights, even if they were not parties to the proceeding before the Court.

### **Loan or rental**

3F. A loan or rental for commercial purposes of a tape cassette on which a work or a substantive part thereof is recorded is copyright within its meaning in the Copyright Act.

### **Rental of computer software** (*Amended 1999*)

3F1. The rental of computer programs for commercial purposes shall be deemed copyright within the meaning of such term in the Copyright Act 1911 except where the computer program itself is not the essential object of the rental.

## **Regulations**

3G. The Minister of Education, Culture and Sport, may, in consultation with the Minister of Justice, make regulations for the implementation of this Ordinance.

## **Copyright in case of unpublished work**

4. In the case of an unpublished work, the author shall be entitled to copyright to it if, when he wrote the work, he was a citizen or resident of Israel.

## **Moral Right**

4A.

- (One) The author has the right to have his name stated with his work, to an extent and degree customary.
- (Two) The author is entitled that no falsification, damage or other change be made on his work, or that no other act be performed that denigrates that work in a manner liable to injure its author's honor or reputation.
- (Three) The infringement of a right under this section is a civil wrong and the provisions of the Civil Wrongs Ordinance (New Version) shall apply to it.
- (Four) The author's right under this section shall be independent of his material right in the work and it shall be in effect even after all or part of that right has been transferred to another.
- (Five) In an action under this section, the author shall be entitled to compensation in an amount to be determined by the Court according to the circumstances of the case, even if no pecuniary damage was proven; these provisions shall not derogate from any other power of the Court under Chapter Five of the Civil Wrongs Ordinance (New Version).

## **Period of copyright protection**

5. (1) The copyright of anonymous and pseudonymous works shall be protected for 70 years after the date of their publication; however, if the author of an anonymous work discloses his identity during the said period or if the pseudonym adopted by the author leaves no doubt on his identity, then the period of protection shall be as said in section 3 of the Copyright Act, 1911, as modified by this Ordinance.

- (2) In respect of the joint work of several authors
  - (a) the period during which the copyright shall be protected after the death of an author shall begin with the death of the last surviving author;
  - (b) wherever this ordinance and the Copyright Act, 1911, refers to the date of an author's death, read the date of the last surviving author's death.
- (3) Protection subsequent to the death of an author or to the publication of a work shall be in effect as of the date of death or of publication, but its period under

the Law shall be counted from January 1 of the year after the death or after the publication.

- (4) Notwithstanding any provision in section 3 of the Copyright Act, 1911, and subject to the other express provisions in that act, protection after the author's death shall be 70 years from the date stated in subsection (3).

### **Protection of foreign works**

6. If a convention was signed between Israel and another state on the matter of copyright protection or if Israel acceded to a convention on this matter, then the Minister of Justice may, by order published in Reshumot, order that the works for which that convention requires protection in Israel, shall be protected according to the provisions of that order; the protection afforded a said work shall not be greater than that which would have been afforded to that work, had it first been published in Israel, if it was published, or had the author been an Israeli citizen when he wrote it, if it was not published; however, an order may provide for greater protection than this, if it so was agreed in the convention, but not greater than as agreed.

### **First publication of work**

7.

- (1) If a work was published in several countries within 30 days after its first publication, then it shall be deemed to have been published simultaneously in all of them.
- (2) If a work was published simultaneously in Israel and in other countries, then it shall be deemed to have been first published in Israel, however, a said work shall not be deemed to have been published in Israel, if publication in Israel was for the sake of appearance only.

### **Permission to use copyrighted material for purposes of educational broadcasts**

7A. *[Repealed. This section was in force only with respect to the period of August 5, 1971 to March 31, 1974.]*

### **Subjects not protected (Amendment 1999)**

7B. Notwithstanding the provisions of section 1 of the Copyright Act 1911, no copyright shall subsist in any of the following:

- (1) an idea;
- (2) a process or method of performance
- (3) a mathematical concept;
- (4) a fact or datum, on their own;

(5) the daily news;

however, copyright shall subsist in the manner in which these are expressed.

#### **Destruction of goods (Amendment 1999)**

7C. Without derogation from the provisions of section 7 of the Copyright Act 1911, the court may, at the end of the hearing of a claim, order the destruction of goods produced in infringement of copyright or used to perform such an infringement; a party filing an application for the destruction of goods under this section shall advise the Israel Police Department of such in the manner to be prescribed in the regulations, and the court shall not deal with the application without providing an opportunity to the police to make claims.

#### **Grant of notice to Director of Customs (Amendment 1999)**

7D. (a) The holder of copyright in a work whose copyright has been infringed, or where there is a reasonable suspicion that it will be infringed, may give notice in writing to the Director of Customs to the effect that he is the holder of copyright in the work, and requesting the Director to delay releasing 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.

(Two) A notice under sub-section (a) shall include one of the following:

- (1) An example of the original work or a non-infringing copy of it in which the applicant has copyright and in respect of which the holder gives notice of the importation of infringing copies;
- (2) A catalog or any other document that enables the Customs Director to compare the original work or non-infringing copy of it with the infringing copies.

(c) The holder of 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 be received.

(d) The copyright holder 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 unjustified, and to pay any fee prescribed for this purpose in 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.

### **Modification of Copyright Act 1911 and Interpretation of Terms**

8. The Copyright Act 1911, shall be read as modified or added to by this Ordinance and any term under this Ordinance shall be interpreted in accordance with the meaning attributed to it in the aforesaid law.

### **Presumptions**

9. The presumptions set forth hereunder shall apply to any civil or criminal legal proceeding involving an infringement of copyright, 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;
  - (2) the presumption prescribed in paragraph (1) shall also apply in respect of the pseudonym of any person, provided that the identity of the owner of the pseudonym is publicly known;
  - (3) 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.

### **Manufacture of and trading in infringing copies (Amendment 2002)**

10. (a) A person making an infringing copy of a work for the purposes of trading therein shall be liable to imprisonment for a term of five years or a fine ten times the fine provided for in section 61(a)(4) of the Penal Law, 5737-1977 (hereinafter referred to as “the Penal Law”).
- (b) A person importing to Israel an infringing copy of a work for the purposes of trading therein shall be liable to imprisonment for a term of five years or a fine ten times the fine provided for in section 61(a)(4) of the Penal Law.
- (c) A person who engages in the sale, hire or distribution of an infringing copy of a work or a person who sells, lets for hire or distributes infringing copies of a work on a commercial scale, shall be liable to imprisonment for a term of three years or a fine seven times the fine provided for in section 61(a)(4) of the Penal Law.
- (d) A person in possession of an infringing copy of a work for the purposes of trading therein shall be liable to imprisonment for a term of three years or a fine seven times the fine provided for in section 61(a)(4) of the Penal Law.
- (e) In this section, the words “infringing copy” means each of the following:
  - (1) a copy made in Israel without the permission of the owner of the copyright in a manner constituting an infringement of the Copyright Act, 1911;
  - (2) a copy imported to Israel which would have constituted an infringement of the Copyright Act, 1911 had it been made in Israel; however a copy made abroad with the permission of the owner of the copyright in the country in which it was made shall not be deemed an infringing copy.

#### **Possession of an infringing object (Amendment 2002)**

11. 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 section 10(a) shall be liable to imprisonment for a term of one year or twice the fine stated in section 61(a)(4) of the Penal Law.

#### **Double fine for body corporate (Amendment 2002)**



12. Where an offence under section 10 or 11 is committed by a corporate entity, such corporate entity shall be liable to double the fine provided for the offence.

**Responsibility of senior officer of a corporate entity (Amendment 2002)**

13. (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 sections 10 or 11 (hereinafter referred to as “an offence”) by a corporate body or any of its employees. Where such senior officer is in breach of his aforesaid obligation he shall be liable to the fine stated in section 61(a)(4) of the Penal Law.
- (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 paragraph (1), 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.
14. (Amendment 2002) Paragraph 2(2) of the Copyright Law, 1911 shall henceforth be read with the addition of the following subparagraph: “(C1) Possesses for the purpose of trade therein; or”
15. (Amendment 2002) Subparagraph 3 of paragraph 6 of the Copyright Law, 1911 shall no longer apply.

End.