

UNESCO
WORLD ANTI PIRACY OBSERVATORY

NIGERIA

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I. Legislation

1. Copyright laws

The primary legislation is the Nigerian Copyright Act Cap. C.28, Laws of the Federation of Nigeria 2004, initially passed in 1988, amended in 1992 and 1999 and re-codified in 2004.

2. Other laws

The other laws pertaining to anti-piracy measures and copyright enforcement are:

- Copyright (Collecting Societies) Regulations 1993
- Copyright (Video Rental) Regulations 1999
- Copyright (Security Devices) Regulations 1999
- Copyright (Optical Discs Plants) Regulation 2006
- Copyright (Collective Management Organization Regulation) 2007

3. Latest developments and perspectives

The latest developments and perspectives are as follows:

1. Provision as to literary and musical works to include the right of communication to the public (for compliance with the provisions of the WIPO internet treaties);
2. Provision on performers' right to include moral rights as well as the right to receive remuneration for the communication of fixed performances;
3. Provisions relating to criminal liability and penalties;
4. Powers to apply to courts to destroy seized infringing materials now vested in the Commission's Copyright Inspectors and right owners;
5. Provision on punishment for corporate bodies to include winding up.
6. Provision relating to simultaneous criminal and civil action to include proviso to allow the commission to apply to courts to stay civil proceedings initiated against it by a suspect;
7. Inclusion of provisions prohibiting the circumvention of technological measures in line with the WIPO internet treaties;
8. Inclusion of provisions for registration of copyright by the establishment of a copyright register; and
9. Provision on prohibition of importation of infringing copies of works now be vested in the Commission. The notice prescribed in S.36 (Border measures) is now to be given to the Director General of the Commission.

4. Summary of legislation

The legal requirements to obtain copyright protection are originality and fixation in a definite medium of expression.

The Nigerian Copyright Act is divided into four major parts: Copyright, Neighboring rights, Administration of Copyright and Miscellaneous:

- Part one provides for works eligible for copyright, by virtue of nationality or domicile, by reference to country of origin, in works of government, state authorities and international bodies and by reference to international agreements. It further provides for the general nature of copyright in the various classes of works, assignment and license, rights of a

copyright owner, duty of printer, copyright infringement, criminal liability, anti-piracy measures, penalties and order for inspection and seizures.

- The second part provides for performers' rights, duration, criteria, action and criminal liability for infringement. It further provides for the protection, infringement and criminal liability with respect to folklore.
- Administration of Copyright, the third part of the Act, provides for the general administration of Copyright: establishment, membership, compulsory licensing, powers to appoint copyright inspectors, collecting societies and levy on copyright materials.
- The Miscellaneous section provides for reciprocal extension of protection, admission of affidavit evidence, presumption, restriction on importation of printed copies, regulations, jurisdiction, limitation to suits against the Commission, service of documents, restriction on execution against the property of the Commission, powers of the minister to give directives, interpretation, repeal and transitional provisions and short title.

In addition to the above, there are five schedules to the Act as follows: The first schedule is on terms of copyright, the second schedule is on exceptions to copyright protection, the third provides for special exceptions with respect to sound recordings, the fourth schedule deals with compulsory licenses for translation and the reproduction of certain works, while the fifth contains the transitional and saving provisions.

- *Exclusive rights of authors and owners of neighboring rights*

Exclusive Rights of the authors

By virtue of Section 6, 7, 8 & 9 of the Nigerian Copyright Act, authors and owners of neighboring rights are granted the following exclusive rights:

In the case of a **literary or musical work**, to do and authorise the doing of any of the following acts: -

- reproduce the work in any material form;
- publish the work;
- perform the work in public;
- produce, reproduce, perform or publish any translation of the work;
- make any cinematographic film or a record with respect to the work;
- distribute to the public, for commercial purposes, copies of the work, by way of rental, lease, hire, loan or similar arrangement;
- broadcast or communicate the work to the public by a loudspeaker or any other similar device;
- make any adaptation of the work; and
- in relation to a translation or an adaptation of the work, perform any of the acts specified in relation to the work in the preceding sub-paragraphs .

In the case of an **artistic work**, to do or authorise the doing of any of the following acts: -

- reproduce the work in any material form;
- publish the work;
- include the work in any cinematographic film;
- make any adaptation of the work; and
- in relation to an adaptation of the work, perform any of the Acts specified in relation to the work in sub-paragraphs (i) to (iii) of this paragraph.

In the case of **cinematographic film**, to do or authorise the doing of any of the following acts -

- make a copy of the film;
- cause the film, in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds, to be heard in public;
- make any record embodying the recording in any part of the soundtrack associated with the film by utilising such soundtrack; and
- distribute to the public, for commercial purposes, copies of the work, by way of rental, lease, hire, loan or similar arrangement.

Copyright in a **work of architecture** shall also include the exclusive right -

- to control the erection of any building which reproduces the whole or a substantial part of the work either in its original form or any form recognisably derived from the original, but not the right to control the reconstruction in the same style as the original of a building to which the copyright relates;
- to claim authorship of his work (S. 12(a)); and
- to object and seek relief in connection with any distortion, mutilation or other modification of, and any derogatory action in relation to his work (S. 12(b)).

The author of **graphic works**, three dimensional works and manuscripts have inalienable rights to a share in the proceeds of any sale of that work or manuscript by public auction or through a dealer whatever the method used by the latter to carry out the operation (S.13). This includes the right of conversion (S.18).

Exclusive right of the owners of neighboring rights

Section 26 provides that a **performer** shall have the exclusive right to control, in relation to his performance, the following acts: -

- a) Performing;
- b) Recording;
- c) Broadcasting live;
- d) Reproducing in any material form; and
- e) Adaptation of the performance.

- *Exceptions and limitations to copyright*

The Act provides, in the second and third schedules, limitations and exceptions from copyright control and special exceptions with respect to a sound recording of a musical work.

- *Protection of foreign works*

The Act protects foreign works. It is based on the principle of national treatment and reciprocity, as mentioned in Section 41.

- *Period of copyright protection*

The period is as provided for in the first schedule to the Act. See S.2 (2) of the Act. The details are as follows:

S/N	TYPE OF WORKS	DURATION
1.	Literary, musical or artistic works other than photographs	70 years after the end of the year in which the author dies; in the case of government or a corporate body, 70 years after the end of the year in which the work was first published.
2.	Cinematographic films and photographs	50 years after the end of the year in which the work was first published.
3.	Sound recording	50 years after the end of the year in which the recording was first made.
4.	Broadcasting	50 years after the end of the year in which the broadcast first took place.
5.	In the case of anonymous or pseudonymous literary, musical or artistic works S. 2 (3)	70 years from the end of the year in which the work was first published provided that when the author becomes known the duration shall be calculated in accordance with the first schedule to the Act.
6.	In the case of Joint authorship	Author refers to the author who dies last S. 2 (4).

- *Registration*

Registration is not mandatory. However, the Commission operates a notification scheme which requires authors to notify the Commission of the existence of their work. The author is expected to duly complete the notification form, submit two copies of the work and pay the prescribed fees. Upon this, the application will be processed and notification of the work will be issued accordingly. This scheme is hinged on the provision of the Act that requires the Commission to keep an effective database on authors and their works. S. 34 (3).

5. International Conventions and Treaties

Nigeria is a member of the following International Convention and Treaties on Copyright and Related Rights:

- [Berne Convention for the protection of Literary and Artistic Works](#)
- [Universal Copyright Convention \(UCC\)](#)
- [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations](#)
- [WTO TRIPS Agreement on Trade Related Aspects of Intellectual Property Rights](#)
- [WIPO Copyright Treaty \(WCT\)](#)
- [WIPO Performances and Phonograms Treaty \(WPPT\)](#)

II. Measures and Remedies

1. Copyright infringement

A copyright infringement action can be made for:

- Unauthorized reproduction, translation, representation, adaptation, arrangement or distribution of the copyrighted work by any means.
- Unauthorized sale, export and import of a copyrighted work.

Section 15 of the Act provides for Infringement of Copyright: it provides that any person who without authorization or license does or causes to be done an act, the doing of which is controlled by copyright, has infringed copyright.

The Act does not provide for any specific provision concerning internet copyright infringement (internet piracy).

2. Remedies to protect copyright holders

The remedies for copyright holders are:

- Damages;
- Injunctions;
- Accounting of profits; and
- Delivery of infringing copies or plates or materials used in making the infringing copies.

In the event of an infringement, the copyright owner is entitled to institute a case at the Federal High Court, exercising jurisdiction in the place where the infringement occurred; and in any such action, the copyright owner is entitled to relief by way of damages, injunctions, accountings, conversion and any other remedies as the courts may deem fit to award in the circumstances. See S. 16, 18 and 19 of the Act. The Act further provides in S.24 for simultaneous criminal and civil action with respect to infringement.

In any action for infringement by a motion *ex parte* supported by an affidavit showing that there is reasonable cause to suspect that there is in any house or premises infringing items being used or intended to be used for making infringing copies or capable of being used for that purpose, the court may issue an order for inspection and seizure. See S. 25 of the Act. Furthermore, where an article has been seized in connection with a suspected offence under the Act, a court may on the application of the Attorney General of the federation or owner of the copyright, order that the articles be destroyed. See S. 20

The Act however does not provide for the destruction of infringing goods.

3. Provisional measures

Section 25 of the Act provides that where it is suspected that infringing copies are in a premise, a court on an *ex parte* application supported by an affidavit may issue an order for inspection and seizure of the premises. A person who knowingly gives false information under this section shall be guilty and liable on conviction to a fine of N1,000.

4. Penalties for copyright infringement

Civil remedies

In Civil matters, penalties for copyright infringement include the following: damages, injunction, accounting for profit or otherwise. See S. 16. (1) & (3).

Criminal Sanctions

In criminal matters, penalties for copyright infringement include the following:

- i. An amount not exceeding N1,000 for every copy; or a term of imprisonment not exceeding 5 years, or both. S. 20 (1)c;
- ii. An amount not exceeding N1,00 for every copy; or a term of imprisonment not exceeding 2 years, or both. S. 20 (2)d;
- iii. An amount not exceeding N100 for every copy; or a term of imprisonment not exceeding 6 months, or both. S. 20 (3);
- iv. The court may order that all infringing copies of the works, plates, master tapes, machines, equipment and contrivances be destroyed or delivered to the owner of the copyright or otherwise, as the court may see fit. S. 20 (4) & (5);
- v. Sections 21(2), (3) & (4) provide for fines not exceeding N100,000 and a term not exceeding 12 months, or both ; fines not exceeding N500,000 and a term not exceeding 5 years, or both; fines not exceeding N50,000 and a term not exceeding 5 years, or both;
- vi. Section 23 provides that a person guilty of making false entries shall be liable in conviction to a fine not exceeding N10,000;
- vii. Section 25 provides that any person who willingly gives false information shall be liable for a fine of N1,000; and
- viii. Sections 30, 33, 38 & 39 further provides for criminal liability with respect to infringement of performers' rights, protection of expression of folklore, copyright inspectors and collecting societies..

5. Requirements for foreign persons

By virtue of the reciprocal extension of protection provided by the Act in Section 41, foreigners enjoy automatic protection of their works. There is no special obligation placed on them.

III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

Under Section 34, the Act places the responsibility of all matters affecting copyright on the Commission. Under Section 38, the Act grants Copyright Inspectors the responsibility of enforcing the Acts.

b) Enforcement bodies entitles to act ex-officio in copyright infringement cases

Under Section 38 of the Act, the Commission can act ex-officio in infringement cases.

c) Courts dealing with copyright cases

Article 16 of the Act provides that the Federal High Court, exercising jurisdiction in the place where the infringement occurred, shall be responsible for actions on infringement of Copyright.

2. Enforcement at the border

The Copyright Act provides for Border protection measures. Under Section 44 of the Act:

- The owner of a copyright may give notice to the Department of Customs and Excise (Nigeria Customs Service) requesting that they treat as prohibited or infringing specific goods or copies of work expected to come into the country through the borders;
- The period of the notice should not exceed five years and shall not extend beyond the period in which the copyright is to subsist;
- Importation of articles by a person for private or domestic use is exempt;
- The Department, its staff, members or agents shall not be liable for any omission arising from actions taken based on the notice given by the copyright owner. However, where the copyright owner has suffered loss as a result of any such act or omission and a fee has been paid or is payable to the department in respect of the notice, an amount equal to the loss or to the amount of the fee for one year, whichever is less, shall be repaid by the department to the owner or, if the fee has not been paid, shall be waived;
- The Minister of Internal affairs is empowered to make regulations prescribing the form in which notices are to be given; and
- A person shall not be liable to any penalty under the Custom and Excise Management Act other than forfeiture of the goods, by reason that any goods are treated as prohibited goods by virtue of this section.

The Nigeria Customs service is responsible for the borders, in general. Although the Nigerian Copyright Commission is responsible for all copyright matters in Nigeria, it works in collaboration with the Nigeria Customs to ensure that copyright infringements at the borders are checked.

The Act provides that the Minister of Internal affairs may make regulations requiring the person giving notice to furnish evidence, and to comply with other specified conditions.

IV. Public Awareness

1. Awareness campaigns and actions

The Nigerian Copyright Commission in May 2004 launched an anti-piracy initiative called Strategic Action Against Piracy (STRAP). The Initiative has three broad-based strategies: enforcement, public enlightenment and rights administration.

2. Promotion of legal exploitation

Information not available

3. Associations and organizations with awareness-raising purpose

List of authorities, associations, NGO's and other bodies engaged in copyright enforcement and anti-piracy activities.

S/N	NAME
1.	National Film and Video Censors Board
2.	Nigeria Film Corporation
3.	Intellectual Property Laws Association of Nigeria (IPLAN)
4.	Collation For Change
5.	MCSN
6.	PMRS
7.	Aluko & Oyebode ...
8.	Aina Blankson & Co
9.	L&A associates
10.	Cybercrime Unit of NSA's office
11.	Standards Organisation of Nigeria
12.	Nigeria Custom Service
13.	Nigeria Police

4. Best practices

Information not available

V. Capacity-Building

1. Training

Several trainings have been held by the Commission in collaboration with development partners for its staff members and for agencies who are mandated to work with copyright or other forms of intellectual property, such as officers of the Nigeria Customs, Standards Organization of Nigeria, National Agency For Food and Drug Administration (NAFDAC), the Nigeria Police, the Federal Ministry of Justice and relevant stakeholders.

2. Establishment of specialized units and intersectoral groups

The Commission has established new departments: Public Affairs, Prosecution and Regulatory departments. These have been established to enhance the effectiveness and efficiency of the Commission.

3. Best practice

Information not available

VI. Other

1. TPM/DRM

The Act does not provide for protection of technological protection measures.

2. Licensing Schemes

Information not available

3. Optical Discs

The Commission has issued the Copyright (Optical Disc Plants) Regulation 2006 and the Copyright (Collective Management Organization) Regulation 2007.

4. Hotlines

Information not available

5. Contact Details

Federal Ministry of Information and Culture
Nigerian Copyright Commission
Federal Secretariat Complex
Shehu Shagari Way
Phase I, Annex II, Ground Floor
P.M.B. 406, Garki, Abuja, FCT
<http://www.nigcopyright.org/>
(234 9) 222 30 32
(234 9) 222 30 34

Nigeria Police

Force Headquarters, Louise Edet House, Area 11, Garki Abuja.

Nigeria Custom Service

N0 3 Abidjan Street, Wuse Zone 3, Abuja, Nigeria.

Tel: 234-09-5234680

Fax: 234-09-5234690

Cybercrime Unit of National Security Adviser's office

Nigerian Cyber Crime Working Group (NCWG)

Office of the National Security Adviser

Three Arms Zone

Aso Villa, Abuja

Standards Organization of Nigeria

Plot 13/14 Northern Business District, Victoria Arobieke Street, Lekki

Peninsula Scheme 1, Lekki, P.M.B. 2102, Yaba Lagos. Tel: 234-01-2708247

National Film and Video Censors Board

Plot 730, Alexandra Crescent, Wuse II, Zone A7, P.M.B. 5053, Wuse Abuja.

Tel: 234-09-4138940;

Website: www.nfvcb.gov.ng

Economic and Financial Crimes Commission

No 5 Fomella Street, Off Adetokunbo Ademola Crescent Wuse II.

Website: www.efccnigeria.org

Intellectual Property Law Association of Nigeria (IPLAN)

The President, Kings George IV Street, Onikan, Lagos

Nigerian Publishers Association

Book House: Quarter 673, Jericho GRA

G.P.O 2541 Ibadan

Nigeria Film Corporation

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