

Statutory Instrument No. 23 of 1969.

THE REVISED EDITION OF LAWS ACT,
1968

**THE REVISED EDITION OF LAWS (COPYRIGHT ACT,
1956) ORDER, 1969**

(Published on 21st February, 1969)

In the exercise of the powers vested in him by section 8 of the Revised Edition of Laws Act, 1968 (No. 50 of 1968), His Excellency the President hereby makes the following Order —

Citation

1. This Order may be cited as the Revised Edition of Laws (Copyright Act, 1956) Order, 1969.

Amendment of 4 & 5 Eliz. 2. c. 74

2. The Copyright Act, 1956, as extended to Botswana under the provisions of the Copyright (Bechuanaland) Order, 1965 (1965 No. 2009) (hereinafter referred to as the principal law) is amended —

- (a) by the deletion of "the United Kingdom" wherever it appears, and the substitution of "Botswana";
- (b) by the deletion of "Her Majesty's Commissioner" wherever it appears and the substitution of "Minister".

Amendment of Long Title of 4 & 5 Eliz. 2. c. 74

3. The long title of the principal law is amended by the deletion of so much as relates to the Registered Designs Act, 1949, and the Dramatic and Musical Performers' Protection Act, 1925.

Amendment of Section 1 of 4 & 5 Eliz. 2. c. 74

4. Section 1 of the principal law is amended by the deletion of subsection (5) and the substitution of —

"(5) For the purposes of any provision of this Act which specifies the conditions under which copyright may subsist in any description of work or other subject matter, "qualified person" —

- (a) in the case of an individual, means a person who is a citizen of Botswana or (not being a citizen of Botswana) is domiciled or resident in Botswana or in another country to which that provision extends; and
- (b) in the case of a body corporate, means a body incorporated under the laws of Botswana or of another country to which that provision extends."

Amendment to Section 8 of 4 & 5 Eliz. 2. c. 74

5. Section 8 of the principal law is amended by the deletion of subsection (3) and the substitution of —

"(3) If it appears to the Minister that the ordinary rate of royalty, or the minimum amount thereof, in accordance with the provisions of the last preceding subsection, or

in accordance with the provisions as last varied by an order under this subsection has ceased to be equitable, either generally or in relation to any class of records, the Minister may hold a public inquiry in the prescribed manner; and if, in consequence of such an inquiry, the Minister is satisfied of the need to do so, the Minister may make an order prescribing such different rate or amount, either generally or in relation to any one or more classes of records, as the Minister may consider just:

Provided that where an order comprising a class of records (that is to say, either a general order or an order relating specifically to that class, or to that class together with one or more classes of records) has been made under this subsection, no further order comprising that class of records shall be made thereunder less than five years after the date on which the previous order comprising that class (or, if more than one, the last previous order comprising that class) was made thereunder."

Amendment of Section 10 of 4 & 5 Eliz. 2. c. 74

6. Section 10 of the principal law is amended in subsection (1) by the insertion after "shall" of "notwithstanding the provisions of that Act as read with section 2 of the Patents and Designs Protection Proclamation (Chapter 155)".

Amendment of Section 14 of 4 & 5 Eliz. 2. c. 74

7. Section 14 of the principal law is amended —

(a) by the deletion of subsection (1) and the substitution of —

"(1) Copyright shall subsist, subject to the provisions of this Act —

(a) in every television broadcast made by any person or body specified by the Minister by notice in the *Gazette* as being a person to whom this section relates (in this Act referred to as a specified authority) from a place in Botswana; and

(b) in every sound broadcast made by a specified authority from such place.";

(b) in subsection (2) by the deletion of "the Corporation or the Authority as the case may be" and the substitution of "the specified authority";

(c) in subsections (3) and (5) by the deletion of "by the Corporation or by the Authority" wherever it appears and the substitution of "by a specified authority".

Amendment of Section 17 of 4 & 5 Eliz. 2. c. 74

8. The principal law is amended in section 17 by —

(a) the deletion in subsection (1) of "injunction, accounts" and the substitution of "interdict";

(b) the deletion in subsection (2) of all words following "action relates", and the substitution of "the damages which may be claimed by the plaintiff in respect of such infringement shall be restricted to the profit enuring to the defendant by reason of such infringement.";

(c) in subsection (4) by the deletion of "injunction" and the substitution of "interdict".

Amendment of Section 19 of 4 & 5 Eliz. 2. c. 74

9. Section 19(3) of the principal law is amended by the deletion of "interlocutory injunction" and the substitution of "temporary interdict".

Amendment of Section 22 of 4 & 5 Eliz. 2. c. 74

10. Section 22 of the principal law is amended by the deletion of "Commissioner of Revenue" and "the said Commissioner" wherever this appears and the substitution of "Financial Secretary".

Repeal of Section 31 of 4 & 5 Eliz. 2. c. 74

11. Section 31 of the principal law is repealed.

Amendment of Section 32 of 4 & 5 Eliz. 2. c. 74

12. Section 32 of the principal law is amended —

(a) in subsection (1) —

(i) by the deletion of "Her Majesty may by Order in Council" and the substitution of "The President may by Order in the *Gazette*";

(ii) by the deletion in paragraph (b) of "British subjects" and the substitution of "citizens of Botswana";

(iii) by the deletion in paragraph (e) of "the Corporation or the Authority" and the substitution of "a specified authority";

(b) by the deletion of "an Order in Council" wherever it appears in subsections (2) and (3) and the substitution of "order";

(c) by the deletion in subsection (3) of "Her Majesty" and the substitution of "The President" wherever this appears.

Amendment of Section 33 of 4 & 5 Eliz. c. 74

13. Section 33 of the principal law is amended —

(a) by the deletion of subsection (1) and the substitution of —

"(1) Where it appears to the President that one or more sovereign powers, or the government or governments thereof, are members of an organization, and that it is expedient that the provisions of this section should apply to that organization, the President may by order in the *Gazette* declare that the organization is one to which this section applies.";

(b) by the deletion of "British subject" and the substitution of "citizen of Botswana".

Amendment of Section 34 of 4 & 5 Eliz. 2. c. 74

14. Section 34 of the principal law is amended —

(a) by the deletion of "Her Majesty may by Order in Council" and the substitution of "The President may by order in the *Gazette*";

(b) by the deletion of "the Corporation and the Authority" wherever they appear, and the substitution of "a specified authority".

Amendment of Section 35 of 4 & 5 Eliz. 2. c. 74

15. Section 35 of the principal law is amended —

(a) by the deletion of "Her Majesty" wherever it appears, and the substitution of "the President";

(b) by the deletion of "Order in Council" wherever it appears and the substitution, where it appears, for the first time, of "order in the *Gazette*" and where it appears

on the second and subsequent occasions of "order";

- (c) by the deletion of "British work" and "British works" wherever they appear and the substitution of "Botswana work" and "Botswana works" respectively.

Amendment of Section 39 of 4 & 5 Eliz. 2. c. 74

16. Section 39 of the principal law is amended —

- (a) by the deletion of "Her Majesty" wherever it appears, and the substitution of "the State";
- (b) by the deletion of subsection (9) and the substitution of —

"(9) In this section "Government Department" means any department of the Government of Botswana or any department or agency of the Government of any other country to which this section extends."

Amendment of Section 40 of 4 & 5 Eliz. 2 c. 74

17. Section 40 of the principal law is amended by the deletion of "the Corporation or the Authority" wherever they appear, and the substitution of "a specified authority".

Substitution of Section 42 of 4 & 5 Eliz. 2. c. 74

18. Section 42 of the principal law is repealed and the following section is substituted —

"Special Provisions as to Public Records

42. Where any work in which copyright subsists, or a reproduction of any such work, is comprised in any records belonging to the State forming part of the archives of the State, which are open to public inspection the copyright in the work is not infringed by the making, or the supplying to any person, of any reproduction of the work by or under the direction of the officer in charge of such records."

Repeal of Sections 44 and 45 of 4 & 5 Eliz. 2. c. 74

19. Sections 44 and 45 of the principal law are repealed.

Amendment of Section 46 of 4 & 5 Eliz. 2. c. 74

20. Section 46 of the principal law is amended by the deletion of "the Crown" wherever it appears, and the substitution of "the State".

Amendment of Section 48 of 4 & 5 Eliz. 2. c. 74

21. Section 48 of the principal law is amended —

- (a) by the deletion of the definitions of "the Corporation" and "the Authority" and "wireless telegraphy apparatus";
- (b) by the insertion of the following definitions —

"specified authority" has the meaning assigned to it in section 14 ;

"wireless telegraphy" means the emitting or receiving, over paths which are not provided by any material substance constructed or arranged for that purpose, of electromagnetic energy of a frequency not exceeding three million megacycles a second, being energy which either —

- (a) serves for the conveying of messages, sound or visual images (whether the messages, sound or images are actually received or not), or for the actuation or control of machinery or apparatus; or

(b) issues in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence, position or motion of any objects of any class.

(c) in subsection (2) by the deletion of "(within the meaning of the Wireless Telegraphy Act, 1949)":

(d) by the deletion of "the Corporation or the Authority wherever this appears, and the substitution of "a specified authority":

Amendment of First Schedule of 4 & 5 Eliz. 2. c. 74

22. The First Schedule of the principal law is amended in paragraph 4 by the insertion after "the Registered Designs Act, 1949," of "to the extent that this is applicable in Botswana by virtue of the provisions of section 2 of the Patents and Designs Protection Proclamation (Chapter 155)".

A.M. MOGWE,
Permanent Secretary to the President.

GABERONES.
5th February, 1969.