

*Extraordinary*



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## A BILL

## FOR

AN ACT TO REPEAL THE COPYRIGHT ACT CAP C28 LFN 2004 AND TO RE-  
ENACT THE COPYRIGHT ACT 2021 AND FOR MATTERS CONNECTED  
THEREWITH, 2021

*Sponsored by Senator Mukhail Adetokunbo Abiru*

[ ] Commencement

BE IT ENACTED by the National Assembly of the Federal  
Republic of Nigeria as follows:

## PART I - COPYRIGHT

1. -(1) Subject to this section, the following shall be eligible for  
copyright- Works eligible  
for copyright

(a) literary works;

(b) musical works;

(c) artistic works;

(d) audiovisual works;

(e) sound recordings; and

(f) broadcasts.

(2) A literary, musical or artistic work shall not be eligible for  
copyright unless-

(a) sufficient effort has been expended on making the work to give  
it an original character;

(b) the work has been fixed in any definite medium of expression  
now known or later to be developed, from which it can be perceived,  
reproduced or otherwise communicated either directly or with the aid of any  
machine or device.

(3) An artistic work shall not be eligible for copyright, if at the time  
when the work is made, it is intended by the author to be used as a model or  
pattern to be multiplied by any industrial process.

1 (4) A work shall not be ineligible for copyright by reason only that the  
2 making of the work or the doing of any act in relation to the work involved an  
3 infringement of copyright in some other work.

4 (5) Eligibility for copyright under this Act shall not be subject to any  
5 formality including registration.

6 (6) Copyright protects any eligible work immediately it is created or  
7 made.

Copyright by  
virtue of nationality  
or domicile

8 **2.-(1)** Copyright shall be conferred by this section on every work  
9 eligible for copyright of which the author or, in the case of a work of joint  
10 authorship, any of the authors is at the time when the work is made, a qualified  
11 person, that is to say-

12 (i) an individual who is a citizen of, or is domiciled in Nigeria; or

13 (ii) a body corporate incorporated by or under the laws of Nigeria.

14 (2) The term of copyright conferred by this section shall be calculated  
15 according to the table set out in the First Schedule to this Act.

16 (3) In the case of anonymous or pseudonymous literary, musical or  
17 artistic works, the copyright therein shall subsist until the end of the expiration  
18 of seventy years from the end of the year in which the work was first published:  
19 Provided that, when the author becomes known, the term of copyright shall be  
20 calculated in accordance with paragraph 1 of the First Schedule to this Act.

21 (4) In the case of a work of joint authorship, a reference in the First  
22 Schedule to this Act to the death of the author shall be taken to refer to the  
23 author who dies last, whether or not he is a qualified person within subsection  
24 (1) of this section.

Copyright by  
reference to  
country of origin

25 **3.-(1)** Copyright shall be conferred by this section on every work,  
26 other than a broadcast, which is eligible for copyright and which-

27 (a) being a literary, musical or artistic work or a audiovisual works, is  
28 first published in Nigeria; or

29 (b) being a sound recording, is made in Nigeria,

1 and which has not been the subject of copyright conferred by section 2 of  
2 this Act.

3 (2) Copyright conferred on a work by this section shall have the  
4 same duration as is provided by section 2 of this Act in relation to the same  
5 type of work.

6 4.-(1) Copyright shall be conferred by this section on every work  
7 which is eligible for copyright and is made by or under the direction or  
8 control of the Government, a State authority or a prescribed International  
9 body.

Copyright in  
works of  
Government, State  
authorities and  
International bodies

10 (2) The term of copyright conferred by this section shall be  
11 calculated in accordance with the table set out in the First Schedule to this  
12 Act.

13 5.-(1) Copyright shall be conferred by this section on every work  
14 if-

Copyright by  
reference to  
international  
agreements

15 (a) on the date of its first publication at least one of the authors is-

16 (i) a citizen of or domiciled in; or

17 (ii) a body corporate established by or under the laws of, a country  
18 that is a party to an obligation in a treaty or other international agreement to  
19 which Nigeria is a party;

20 (b) the work is first published-

21 (i) in a country which is a party to an obligation in a treaty or other  
22 international agreement to which Nigeria is party;

23 (ii) by the United Nations or any of its specialised agencies; or

24 (iii) by the Organisation of African Unity; or

25 (iv) by the Economic Community of West African States.

26 (vi) if the work qualifies as a work emanating from any of the  
27 countries listed in the 1972 Copyright (Reciprocal Extension) Order.

28 (2) Where the question arises as to whether a country is a party to  
29 an obligation in a treaty or other international agreement to which Nigeria is  
30 also a party, a certificate from the Commission to that effect shall be

	1	conclusive proof of that fact.
Nature of copyright in literary, artistic, musical and audiovisual works	2	6.-(1) Subject to the exceptions specified in the Second Schedule to
	3	this Act, copyright in a work shall be the exclusive right to control the doing in
	4	Nigeria of any of the following acts, that is-
	5	<i>[Second Schedule.]</i>
	6	(a) in the case of a literary or musical work, to do and authorise the
	7	doing of any of the following acts-
	8	(i) reproduce the work;
	9	(ii) publish the work;
	10	(iii) perform the work in public;
	11	(iv) produce, reproduce, perform or publish any translation of the
	12	work;
	13	(v) make any audiovisual work or a record in respect of the work;
	14	(vi) distribute to the public, for commercial purposes, copies of the
	15	work, by way of rental, lease, hire, loan or similar arrangement;
	16	(vii) broadcast the work;
	17	(viii) communicate the work to the public;
	18	(ix) make the work available to the public by wire, wireless or online
	19	means in such a way that members of the public are able to access the work
	20	from a place and at a time individually chosen by them.
	21	(x) make any adaptation of the work;
	22	(xi) do in relation to a translation or an adaptation of the work, any of
	23	the acts specified in relation to the work in sub-paragraphs (a) to (ix) of this
	24	paragraph;
	25	(b) in the case of artistic works, to do or authorise the doing of any of
	26	the following acts, that is-
	27	(i) reproduce the work,
	28	(ii) publish the work,
	29	(iii) include the work in any audiovisual work,
	30	(iv) broadcast the work

- 1 (v) communicate the work to the public
- 2 (vi) make the work available to the public by wire or wireless
- 3 means in such a way that members of the public are able to access the work
- 4 from a place and at a time individually chosen by them.
- 5 (vii) make any adaptation of the work,
- 6 (viii) do in relation to an adaptation of the work any of the acts
- 7 specified in relation to the work in subparagraphs (i) to (vi) of this paragraph;
- 8 Provided always that the protection of a three dimensional work of artistic
- 9 craftsmanship shall not extend to its functional or utilitarian aspects.
- 10 (c) in the case of audiovisual works, to do or authorise the doing of
- 11 any of the following acts, that is-
- 12 (i) reproduce the audiovisual work,
- 13 (ii) adapt the audiovisual work ;
- 14 (iii) cause the audiovisual work, in so far as it consists of visual
- 15 images to be seen in public and, in so far as it consists of sounds, to be heard
- 16 in public,
- 17 (iv) communicate the audiovisual work to the public;
- 18 (v) broadcast the audiovisual work;
- 19 (vi) make any copy of the sound track of an audiovisual work.
- 20 (vii) make the work available to the public by wire, wireless on
- 21 online means in such a way that members of the public are able to access the
- 22 work from a place and at a time individually chosen by them.
- 23 (viii) distribute to the public, for commercial purposes copies of
- 24 the audiovisual work, by way of rental, lease, hire, loan or similar
- 25 arrangement;
- 26 (ix) make an adaptation of the audiovisual work;
- 27 (x) make a translation of the audiovisual work or any part thereof;
- 28 (xi) do in relation to a translation or an adaptation of the work, any
- 29 of the acts specified in relation to the work in sub-paragraphs (i) to (x) of this
- 30 paragraph.

Nature of  
copyright in  
sound recording

1 (2) The doing of any of the acts referred to in subsection (1) of this  
2 section shall be in respect of the whole or a substantial part of the work either in  
3 its original form or in any form recognisably derived from the original.

4 (3) Copyright in a work of architecture shall also include the  
5 exclusive right to control the erection of any building which reproduces the  
6 whole or a substantial part of the work either in its original form or any form  
7 recognisably derived from the original, but not the right to control the  
8 reconstruction in the same style as the original of a building to which the  
9 copyright relates.

10 (4) The provisions of the Third Schedule to this Act shall apply to  
11 musical works.

12 7.-(1) Copyright in a sound recording shall be the exclusive right to  
13 control in Nigeria-

14 (a) the production, broadcasting or communication to the public of  
15 the whole or a substantial part of the recording either in its original form or in  
16 any form recognisably derived from the original;

17 (b) reproduce the sound recording;

18 (c) communicate the sound recording to the public;

19 (d) make the sound recording available to the public by wire, wireless  
20 or online means in such a way that members of the public are able to access the  
21 sound recording from a place and at a time individually chosen by them.

22 (e) distribute to the public, for commercial purposes copies of the  
23 sound recording, by way of rental, lease, hire, loan or similar arrangement.

24 (2) The exceptions specified in the Second Schedule to this Act shall  
25 apply to the copyright in sound recording in like manner as they apply to  
26 copyright in literary, musical or artistic work or audiovisual works.

Nature of  
copyright in  
broadcast

27 8.-(1) Subject to this section, copyright in a broadcast shall be the  
28 exclusive right to control the doing in Nigeria of any of the following acts, that  
29 is-

30 (a) broadcasting;

1 (b) communication to the public of the broadcast;  
2 (c) making the broadcast available to the public by wire, wireless  
3 or online means or online in such a way that members of the public are able  
4 to access the work from a place and at a time individually chosen by them;  
5 (d) fixation of the broadcast;  
6 (e) reproduction of a fixation of the broadcast;  
7 (f) adaptation of a fixation of the broadcast; and  
8 (g) distribution of a fixation of the broadcast or copies thereof for  
9 commercial purposes by way of rental, lease, hire, loan or similar  
10 arrangement.

11 (2) Cable retransmission operators who do nothing other than  
12 retransmit the broadcasts of broadcasting organizations shall not have the  
13 rights provided for in subsection (1) of this section in respect of the  
14 broadcasts retransmitted.

15 (3) The copyright in a television broadcast shall include the right to  
16 control the taking of still photographs from the broadcast.

17 (4) The exceptions specified in the Second Schedule to this Act  
18 shall apply to the copyright in a broadcast, in like manner as they apply to  
19 copyright in literary, musical or artistic work or audiovisual works.

20 *[Second Schedule.]*

21 **9.-(1)** Where the owner of the copyright in any literary, musical or  
22 artistic work authorises a person to incorporate the work in an audiovisual  
23 work and a broadcasting authority broadcasts the audiovisual work, the  
24 owner of the copyright shall, in the absence of any express agreement to the  
25 contrary between the owner and that person, be deemed to have authorised  
26 the broadcast.

Broadcasting of  
works incorporated  
in audiovisual  
works

27 (2) Where a musical work or sound recording has been published  
28 for commercial purposes, the performer and owner of copyright of such  
29 musical work or sound recordings shall enjoy the right to equitable  
30 remuneration for any broadcast of the sound recording.

1           (3) Notwithstanding subsections (1) and (2) of this section, where a  
2     broadcasting authority broadcasts an audiovisual work in which a musical  
3     work or sound recording is incorporated, the owner of the right to broadcast the  
4     musical work or sound recording shall, subject to this Act, be entitled to receive  
5     fair compensation from the broadcasting authority.

6           (4) The remuneration referred to in subsection (1) or (2) of this section  
7     shall be paid by the natural or legal persons who use the musical works or sound  
8     recordings or copies thereof.

9           (5) The amount of remuneration and the conditions of the payment  
10    thereof shall be agreed between the users of musical works, or sound  
11    recordings and the performer and owner of copyright in sound recordings, or  
12    their representatives; and failing such agreement, it shall be determined by the  
13    Commission.

14          (6) Unless otherwise provided for in an agreement, the distribution of  
15    remuneration referred to in subsection (2) of this section between the  
16    performer and the owner of copyright in the musical works or sound recording  
17    shall be determined by the Commission.

18          (7) Where the remuneration is to be received by more than one  
19    collective management organization, the collective management organizations  
20    concerned shall agree on which of them shall collect such remuneration on  
21    their behalf, failing which the Commission may specify accordingly.

22          (8) For the purposes of this section, musical works or sound  
23    recordings made available to the public by wire or wireless means or online in  
24    such a way that members of the public may access them from a place and at a  
25    time individually chosen by them shall be deemed published for commercial  
26    purposes.

27          (9) In the exercise of the rights under this section, the performer and  
28    owner of copyright in the musical works or sound recordings shall have a right  
29    to the logs, statements and information relating to the broadcast of the sound  
30    recording.

1 (10) In the absence of an agreement on or relating to the  
2 compensation payable under subsection (2) of this section, the amount of  
3 compensation shall be determined by the Commission.

4 **10.-(1)** Copyright conferred by sections 2 and 3 of this Act, shall First ownership  
of copyright  
5 vest initially in the author.

6 (2) Notwithstanding sub section (1) of this section, where a person  
7 commissions the taking of a photograph, or the painting or drawing of a  
8 portrait or the making of an audiovisual work, the person who  
9 commissioned the photograph, portrait or audiovisual work shall unless  
10 there is a written agreement to the contrary, have:

11 (a) a non-exclusive licence to exploit the photograph, portrait or  
12 audiovisual work and

13 (b) A right to restrain the publication, exhibition, communication  
14 and distribution of the photograph, portrait or audiovisual work to the  
15 public.

16 (3) Notwithstanding subsection (6) of section 11 of this Act where  
17 a work-

18 (a) is commissioned by a person who is not the author's employer  
19 under a contract of service or apprenticeship; or

20 (b) not having been so commissioned, is made in the course of the  
21 author's employment, the copyright shall belong in the first instance to the  
22 author, unless otherwise stipulated in writing under the contract.

23 (4) Where a literary, artistic or musical work is made by the author  
24 in the course of his employment by the proprietor of a newspaper, magazine  
25 or similar periodical under a contract of service or apprenticeship as is so  
26 made for the purpose of publication in a newspaper, magazine or similar  
27 periodical, the said proprietor shall, in the absence of any agreement to the  
28 contrary, be the first owner of copyright in the work in so far as the copyright  
29 relates to the publication of the work in any newspaper, magazine or similar  
30 periodical; or to the reproduction of the work for the purpose of its being so

1 published; but in all other respects, the author shall be the first owner of the  
2 copyright in the work.

3 (5) In the case of an audiovisual work or sound recording the author  
4 shall be obliged to conclude, prior to the making of the work, contracts in  
5 writing with all those whose works are to be used in the making of the work.

6 (6) Where a person, in the absence of agreement to the contrary,  
7 creates a work under the direction or control of a Government, a Ministry,  
8 Department or Agency of a Government, or a prescribed international or inter-  
9 governmental organization, the copyright in that work shall vest in that  
10 Government, Ministry, Department, Agency, prescribed international or inter-  
11 governmental organization.

12 (7) Copyright in a collective work shall vest in the natural or legal  
13 persons who commissioned the work unless there is a written agreement to  
14 contrary.

Assignment  
and Licence

15 **11.-(1)** Subject to the provisions of this section, copyright shall be  
16 transmissible by assignment, by testamentary disposition or by operation of  
17 law, as movable property pursuant to Chapter 4 of the Nigerian Constitution.

18 (2) An assignment or testamentary disposition of copyright may be  
19 limited so as to apply to only some of the acts which the owner of the copyright  
20 has the exclusive right to control, or to a part only of the period of the copyright,  
21 or to a specified country or other geographical area.

22 (3) No assignment of copyright and no exclusive licence to do an act,  
23 the doing of which is controlled by copyright, shall have effect unless it is in  
24 writing.

25 (4) A non-exclusive licence to do an act, the doing of which is  
26 controlled by copyright, may be written or oral, or may be inferred from  
27 conduct.

28 (5) An assignment or licence granted by one copyright owner shall  
29 have effect as if granted by his co-owner also, and, subject to any contract

1 between them, fees received by the grantors shall be divided equitably  
2 between all the co-owners.

3 (6) For the purposes of this subsection, persons shall be deemed to  
4 be co-owners-

5 (a) if they share a joint interest in the whole or any part of a  
6 copyright; or

7 (b) if they have interest in the various copyrights in a composite  
8 production, that is to say, a production consisting of two or more works.

9 (7) An assignment, licence or testamentary disposition may be  
10 effectively granted or made in respect of a future work or an existing work in  
11 which copyright does not yet subsist; and the prospective copyright in any  
12 such work shall be transmissible by operation of law as movable property.

13 (8) A testamentary disposition of material on which a work is first  
14 written or otherwise recorded shall, in the absence of any contrary  
15 indication, be presumed to include any copyright or prospective copyright in  
16 the work which is vested in the deceased.

17 **12.** The author of a work in which copyright subsists has the right-

Right to claim  
authorship

18 (a) to claim authorship of his work, in particular that his authorship  
19 be indicated in connection with any of the acts referred to in section 6 of this  
20 Act except when the work is included incidentally or accidentally when  
21 reporting current events by means of broadcasting;

22 (b) to object and to seek relief in connection with any distortion,  
23 mutilation or other modification of and any other derogatory action in  
24 relation to his work, where such action would be or is prejudicial to his  
25 honour or reputation.

26 (2) The rights referred to in subsection (1) of this section, are  
27 perpetual, inalienable and imprescriptible.

28 (3) For the purpose of this section, "author" includes his heirs and  
29 successors in title.

Right to share  
in proceeds of  
sale

1                   **13.**-(1) Notwithstanding any assignment or sale of the original work,  
2                   the authors of graphic works, three-dimensional works and manuscripts shall  
3                   have an inalienable right to a share in the proceeds of any sale of that work or  
4                   manuscript by public auction or through a dealer whatever the method used by  
5                   the latter to carry out the operation.

6                   (2) The right conferred by this section shall apply to originals of such  
7                   work.

8                   (3) The conditions for the exercise of the right conferred by this  
9                   section shall be determined by regulations to be made by the Nigerian  
10                  Copyright Commission.

11                  (4) The foregoing provisions of this section, shall not apply to  
12                  architectural works or applied art.

13                  (5) In this section, "author" includes heirs and successors in title.

Duty of keep  
record of work  
produced

14                  **14.** Any person carrying on the business of production or  
15                  reproduction of works including publishers, printers, producers,  
16                  manufacturers and aggregators of works in which copyright subsists shall keep  
17                  a record of all works dealt with in the course of their business, showing the  
18                  following-

19                  (a) the name of the author;

20                  (b) the title of the work;

21                  (c) date of use or production;

22                  (d) the quantity of the work used or produced; and

23                  (e) any other information as may be prescribed by the Commission  
24                  from time to time

Infringement  
of copyright

25                  **15.**-(1) Copyright is infringed by any person who without the licence  
26                  or authorisation of the owner of the copyright-

27                  (a) does, or causes any other person to do an act, the doing of which is  
28                  controlled by copyright under sections 6, 7, and 8 of this Act;

29                  (b) imports or causes to be imported into Nigeria any copy of a work  
30                  which, if it had been made in Nigeria, would be an infringing copy under this

1 section of this Act;

2 (c) exhibits in public any article in respect of which copyright is  
3 infringed under paragraph (a) of this subsection;

4 (d) distributes by way of trade, offers for sale, hire or otherwise or  
5 for any purpose prejudicial to the owner of the copyright, any article in  
6 respect of which copyright is infringed under paragraph (a) of this  
7 subsection;

8 (e) makes or has in his possession plates, master tapes, machines,  
9 equipment or contrivances used for the purpose of making infringed copies  
10 of the work;

11 (f) permits a place of public entertainment or of business to be used  
12 for a performance in the public of the work, where the performance  
13 constitutes an infringement of the copyright in the work, unless the person  
14 permitting the place to be so used was not aware, and had no reasonable  
15 ground for suspecting that the performance would be an infringement of the  
16 copyright;

17 (g) performs or causes to be performed, for the purposes of trade or  
18 business or as supporting facility to a trade or business, any work in which  
19 copyright subsists;

20 (h) permits within its premises, the reproduction including  
21 photocopying, scanning and dubbing, of copyright material.

22 (2) Notwithstanding subsection (1) of this section, or any other  
23 provision of this Act, where any work in which copyright subsists, or a  
24 reproduction of any such works, is comprised in-

25 (a) the archives stored in the National Archives established under  
26 the National Archives Act; or

27 *[Cap. N6.]*

28 (b) the public records of a State, being records for the storage or  
29 custody of which provision is made by law, the copyright in the work is not  
30 infringed by the making or the supplying to any person of any reproduction

Action for  
infringement

1 of the work in pursuance of that Act or law.

2 **16.-(1)** Subject to this Act, infringement of copyright shall be  
3 actionable at the suit of the owner, assignee or an exclusive licensee of the  
4 copyright, as the case may be, in the Federal High Court exercising jurisdiction  
5 in the place where the infringement occurred; and in any action for such an  
6 infringement, all such relief by way of damages, injunction, accounts or  
7 otherwise shall be available to the plaintiff as is available in any corresponding  
8 proceedings in respect of infringement of other proprietary rights.

9 (2) Where an action for infringement of copyright brought by the  
10 copyright owner or an exclusive licensee relates to an infringement in respect  
11 of which they have concurrent rights of action, the copyright owner or the  
12 exclusive licensee may not, without the leave of court, proceed with the action  
13 unless the other is either joined as a plaintiff or added as a defendant.

14 (3) Where, in an action for infringement of copyright, it is proved or  
15 admitted that an infringement was committed but that at the time of the  
16 infringement the defendant was not aware and had no reasonable grounds for  
17 suspecting that copyright subsisted in the work to which the action relates, the  
18 plaintiff shall not be entitled under this section to any damages against the  
19 defendant in respect of the infringement, but shall be entitled to an account of  
20 profits in respect of the infringement, whether or not any other relief is granted  
21 under this section.

22 (4) Where, in an action under this section, an infringement of  
23 copyright is proved or admitted, and the court in which the action is brought,  
24 having regard (apart from all other material considerations) to-

25 (a) the flagrancy of the infringement; and

26 (b) any benefit shown to have accrued to the defendant by reason of  
27 the infringement, is satisfied that effective relief would not otherwise be  
28 available to the plaintiff, the court, in assessing damages for the infringement,  
29 shall have power to award such additional damages by virtue of this subsection  
30 as the court may consider appropriate in the circumstances.

1 (5) No injunction shall be issued in proceedings for infringement  
2 of copyright which requires a completed or partly completed building to be  
3 demolished or prevents the completion of a partly completed building.

4 (6) In this section, "action" includes a counterclaim, and references  
5 to the plaintiff and to the defendant in an action shall be construed  
6 accordingly.

7 **17.** Notwithstanding the provisions of this Act or any other law, no  
8 action for the infringement of copyright or any right under this Act shall be  
9 commenced or maintained by any person-

Limitation to the  
right of action

10 (a) carrying on the business of negotiating and granting of licences;

11 (b) collecting and distributing royalties in respect of copyright  
12 works or representing more than fifty owners of copyright in any category of  
13 works protected by this Act, unless it is approved under section 58 of this Act  
14 to operate as a collecting society, a collective management organization, or  
15 is otherwise issued with a certificate of exemption by the Commission.

16 **18.** All infringing copies of any work in which copyright subsists,  
17 or of any substantial part thereof, and all plates, master tapes, machines,  
18 equipment or contrivances used, or intended to be used for the production of  
19 such infringing copies, shall be deemed to be the property of the owner,  
20 assignee or exclusive licensee, as the case may be, of the copyright, who  
21 accordingly may take proceedings for the recovery of the possession thereof  
22 or in respect of the conversion thereof.

Conversion rights

23 **19.-(1)** An infringement of the rights conferred by sections 10 and  
24 12 of this Act is actionable as a breach of statutory duty owed to the person  
25 entitled to the right.

Infringement  
actionable as  
breach of statutory  
duty

26 (2) In proceedings for infringement of the rights conferred by the  
27 said sections 10 and 12 of this Act, the person whose rights have been  
28 infringed shall be entitled to an award of damages, injunction and any other  
29 remedies as the court may deem fit to award in the circumstances.

Criminal  
Liability

1           **20.-(1)** (a) makes or causes to be made for sale, hire, or for the  
2 purposes of trade or business any infringing copy of a work in which copyright  
3 subsists; or

4           (b) imports or causes to be imported into Nigeria a copy of any work  
5 which if it had been made in Nigeria would be an infringing copy, or

6           (c) makes, causes to be made, or has in his possession, any plate,  
7 master tape, machine, equipment or contrivance for the purposes of making  
8 any infringing copy of any such work;

9 shall be guilty of an offence and liable on conviction to a fine of not less than  
10 N50,000.00 for every copy dealt with in contravention of this section or to  
11 imprisonment for a term of not less than 5 years, or to both such fine and  
12 imprisonment.

13           (2) Any person who-

14           (a) sells or lets for hire or for the purposes of trade or business,  
15 exposes or offers for sale or hires any infringing copy of any work in which  
16 copyright subsists; or

17           (b) distributes for the purposes of trade or business any infringing  
18 copy of any such work; or

19           (c) has in his possession other than for his private or domestic use, any  
20 infringing copy of any such work,

21           (d) has in his possession, sells, lets for hire or distribution for the  
22 purposes of trade or business or exposes or offers for sale or hire any copy of a  
23 work which if it had been made in Nigeria would be an infringing copy, shall be  
24 guilty of an offence and liable on conviction to a fine of not less than  
25 N100,000.00 for every copy dealt with in contravention of this section, or to  
26 imprisonment for a term of not less than 3 years or in the case of an individual to  
27 both such fine and imprisonment.

28           (3) A defendant shall not be guilty of an offence under subsections (1)  
29 and (2) above if he proves to the satisfaction of the court that he did not know  
30 and had no reason to believe that any such copy was an infringing copy of any

1       such work, or that such plate, master tape, machine, equipment or  
2       contrivance was not for the purpose of making infringing copies of any such  
3       work.

4               (4) Any person who, without the consent of the owner, distributes,  
5       in public for commercial purposes, by way of rental, lease, hire, loan or  
6       similar arrangement, copies of a work in which copyright subsists shall be  
7       guilty of an offense under this Act, and shall be liable upon conviction to a  
8       fine of not less than N50,000.00 for every copy dealt with or to  
9       imprisonment for a term of not less than 3 years or to both such fine and  
10      imprisonment.

11             (5) The court before which any proceedings are taken for any  
12      offense under subsections (1), (2) and (3) of this section, whether the alleged  
13      offender is convicted or not, may order all copies of the works, plates, master  
14      tapes, machines, equipment and contrivances in the possession of the  
15      alleged offender, which appear, to be infringing copies, of the works, to be  
16      destroyed or delivered up to the owner of the copyright or otherwise dealt  
17      with as the court may deem fit.

18             (6) Where an article has been seized by a law enforcement officer  
19      in connection with a suspected offence under this Act, a court may on the  
20      application of a Copyright Inspector or owner of the copyright in  
21      connection with which such offence is suspected to have been committed,  
22      order that the article be destroyed or delivered up to the owner of the  
23      copyright or otherwise dealt with as the court may think fit, notwithstanding  
24      that no person has been charged with the suspected offence.

25             (7) Any person who without the consent of the owner  
26      communicates to the public or makes a work available to the public by wire,  
27      wireless or online means in such a way that members of the public are able to  
28      access the work from a place and at a time individually chosen by them for  
29      commercial purpose, a work in which copyright subsists shall be guilty of an  
30      offence under this Act and liable on conviction to a fine of not less than

1 N1,000,000.00 or to imprisonment for a term of not less than 5 years or to both  
2 such fine and imprisonment.

3 (8) Any person who upon demand refuses or omits to pay any royalty  
4 accruing by virtue of a right of remuneration under this Act, or as agreed by of  
5 not less than N2,000,000.00 or to imprisonment for a term of not less than 12  
6 months or to both such fine and imprisonment. the parties or determined by the  
7 Commission, shall be guilty of an offence and liable upon conviction to a fine.

8 (9) Any person who aids or procures another person to commit an  
9 offence under this Act is guilty of an offence and shall be liable upon conviction  
10 to the same punishment as is prescribed under this Act for the commission of  
11 the main offence.

Offence by bodies  
corporate

12 **21.-(1)** Where an offence under this Act has been committed by a  
13 body corporate, the body corporate and every person who at the time the  
14 offence was committed was in charge of, or was responsible to the body  
15 corporate for the conduct of the business of the body corporate shall be deemed  
16 to be guilty of such offence and liable to be proceeded against and punished  
17 accordingly:

18 Provided that, nothing contained in this subsection shall render any person  
19 liable to any punishment, if he proves that the offence was committed without  
20 his knowledge or that he exercised all due diligence to prevent the commission  
21 of such offence.

22 (2) Notwithstanding anything contained in subsection (1) of this  
23 section, where an offence under this Act has been committed by a body  
24 corporate and it is proved that the offence was committed with the consent or  
25 connivance of any director, manager, secretary or other officer of the body  
26 corporate, such director, manager, secretary or other officer shall also be  
27 deemed to be guilty of that offence and shall be liable to be proceeded against  
28 and punished accordingly.

29 (3) For the purposes of this section-

30 "body corporate" includes a firm or other association of persons; and

1 "director" in relation to a firm includes a partner in the firm.

2 **22.**-(1) Any person who-

3 (a) fails to keep the record required under this section 14; or

4 (b) makes or causes to be made a false entry in such record; or

5 (c) produces or tenders, or causes to be produced or tendered as

6 evidence any such entry knowing the same to be false, shall be guilty of an

7 offense under this section and be liable on conviction to a fine of not less

8 than N1,000,000.00.

9 (2) A copyright owner or any other person having an interest in a

10 work shall upon written demand, be furnished with information relating to

11 that work as contained in the record required to be kept under this section.

12 **23.** Notwithstanding the provisions of any law to the contrary, it

13 shall be permissible for both criminal and civil actions to be taken

14 simultaneously in respect of the same infringement under this Act.

15 **24.**-(1) In any action for infringement of any right under this Act,

16 where an ex parte application is made to the court supported by affidavit,

17 that there is reasonable cause for suspecting that there is in any house or

18 premises any infringing copy or any plate, film or contrivance used or

19 intended to be used for making infringing copies or capable of being used for

20 the purposes of making copies or any other article, book or document by

21 means of or in relation to which any infringement under this Act has been

22 committed, the court may issue an order upon such terms as it deems just,

23 authorising the applicant to enter the house or premises at any reasonable

24 time by day or night accompanied by a police officer or a Copyright

25 Inspector and-

26 (a) seize, detain and preserve any such infringing copy or

27 contrivance; and

28 (b) inspect all or any documents in the custody or under the control

29 of the defendant relating to the action.

30 (2) Any person who knowingly gives false information under this

Penalties for failure  
to keep records  
or making false  
entries

Civil and Criminal  
actions may be  
simultaneous

Order for inspection  
and seizure

Anti-piracy  
devices

1 section of this Act, is guilty of an offence and liable on conviction to a fine of  
2 N1,000,000.

3 PART II - ONLINE AND OTHER ANTI-PIRACY MEASURES

4 **25.-(1)** The Commission shall have powers, with the consent of the  
5 Minister, to prescribe any design, label, mark, impression or any other anti-  
6 piracy device for use on, in, or in connection with any work in which copyright  
7 subsists.

8 (2) Any person who-

9 (a) sells, rents, hires or

10 (b) offers for sale, rent or hire,

11 any work in contravention of the prescription made pursuant to subsection (1)  
12 of this section commits an offence and is liable on conviction to a fine of not  
13 less than N500,000.00 or to imprisonment for a term of not less than 3 years or  
14 to both such fine and imprisonment.

15 (3) Any person who without the permission of the Commission-

16 (a) imports into Nigeria; or

17 (b) has in his possession, any machine, instrument or other  
18 contrivance intended for use in the production of the anti- piracy device,  
19 commits an offence and is liable on conviction to a fine of not less  
20 than N1,000,000.00 or to imprisonment for a term of not less than 5 years, or to  
21 both such fine and imprisonment.

22 (4) Any person who without the permission of the Commission-

23 (a) is in possession of; or

24 (b) reproduces, or

25 (c) counterfeits,

26 any anti-piracy device prescribed under this section commits an offence and is  
27 liable on conviction to a fine of not less than N200,000.00 or to imprisonment  
28 for a term of not less than 2 years, or to both such fine and imprisonment.

29 (5) The Commission shall have power, with the consent of the  
30 Minister, to make regulations specifying the conditions necessary to give effect

1 to the purpose of this section.

2           **26.**-(1) Subject to the provisions of Part II of this Act, no person  
3 shall knowingly circumvent a technological protection measure that  
4 effectively protects a work under this Act. Circumvention  
of technological  
protection measures

5           (2) No person shall manufacture, import, sell, offer to the public,  
6 provide, or otherwise traffic in any technology, product, service, device, or  
7 part thereof, that-

8           (a) is primarily designed or produced for the purpose of  
9 circumventing protection afforded by a technological measure that  
10 effectively protects a work under this Act; or

11           (b) has only limited commercially significant purpose or use other  
12 than to circumvent protection afforded by a technological measure that  
13 effectively protects a work under this Act.

14           (3) As used in this section-

15           (a) "Circumvent a technological protection measure" means  
16 avoiding, bypassing, removing, deactivating, decrypting or otherwise  
17 impairing a technological measure.

18           (b) a technological measure effectively protects a work under this  
19 Act if the measure, in the ordinary course of its operation, prevents or restrict  
20 acts in respect of the works, which are not authorized by the authors  
21 concerned or permitted by law:

22           Provided that this section does not extend to measures which in the normal  
23 cause of operation, only controls access to a work for non-infringing  
24 purposes.

25           (4) A non-profit library, archive, or educational institution which  
26 gains access to a commercially exploited copyright work solely in order to  
27 make a good faith determination of whether to acquire a copy of that work  
28 for the sole purpose of engaging in conduct permitted under this Act shall  
29 not be in violation of the provisions of this section:

30           Provided however that a copy of a work to which access has been gained

1 under this subsection;

2 (a) may not be retained longer than necessary to make such good faith  
3 determination; and

4 (b) may not be used for any other purpose.

5 (5) The exemption under subsection (4) of this section shall only  
6 apply with respect to a work when an identical copy of that work is not  
7 reasonably available in another form.

8 (6) A non-profit library, archives, or educational institution that  
9 willfully for the purpose of commercial advantage or financial gain violates the  
10 provision of this section shall forfeit the exemption provided for under  
11 subsection (4) of this section.

12 (7) This section does not prohibit any lawfully authorized  
13 investigative, protective, information security, intelligence activity, or  
14 computer security measures.

15 (8) The provision of this section shall not affect the exercise of any  
16 exception provided in this Act as it relates to the work in respect of which the  
17 technological protection measure is applied.

18 (9) Notwithstanding the provisions of this section, a person who has  
19 lawfully obtained the right to use a copy of a computer program may  
20 circumvent a technological measure that effectively controls access to a  
21 particular portion of that program for the sole purpose of identifying and  
22 analysing those elements of the program that are necessary to achieve  
23 interoperability of an independently created computer program with other  
24 programs, and that have not previously been readily available to the person  
25 engaging in the circumvention, to the extent that any such acts of identification  
26 and analysis do not constitute infringement under this Act.

27 (10) For purposes of this subsection, the term "interoperability"  
28 means the ability of computer programs to exchange information and of such  
29 programs mutually to use the information, which has been exchanged.

1               **27.**-(1) No person shall knowingly and with intent to induce, Falsification,  
2 enable, facilitate, or conceal infringement provide rights management alteration or  
3 information that is false. removal of rights  
management  
information

4 (2) No person shall, without the authority of the copyright owner:

5 (a) Knowingly remove or alter any rights management  
6 information.

(b) sell, offer for sale, distribute, import for distribution, broadcast or communicate to the public, works or copies of works knowing that rights management information has been removed or altered without authority, knowing, or having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right under this Act.

(3) As used in this section, "rights management information" means information which identifies a work or other subject matter, the author of the work, the owner of any right in the work, or information about the terms and conditions of use of the work, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work or appears in connection with the communication of a work to the public.

19	<b>28.-(1)</b> Any person whose right is affected by acts under this Act	Actions for circumvention of technological protection measures and rights management information
20	may bring an action for such acts and the Court before which such action is	
21	brought may grant all such reliefs by way of damages, injunction, accounts	
22	or otherwise as shall be available to a Plaintiff in any corresponding	
23	proceedings in respect of infringement of other proprietary rights.	

(2) A court before which an action is brought under this section, may order that any device or product that is in the custody or control of the alleged violator, which the court has reasonable cause to believe was involved in the violation, to be impounded on such terms as it deems necessary

(3) Any person who, in the course of business, makes or imports into Nigeria a technology or device for the circumvention of a technological

1 protection measure, knowing that it is likely to be so used is guilty of an offence  
2 and liable on conviction to a fine of not less than N1,000,000.00 or to  
3 imprisonment for a term of not less than 5 years or to both such fine and  
4 imprisonment.

5 (4) Any person who, in the course of business, sells, distributes, lets  
6 for hire, offers or exposes for sale or hire, a technology or device for the  
7 circumvention of a technological protection measure, knowing that it is likely  
8 to be so used is guilty of an offence and liable on conviction to a fine of not less  
9 than N500,000. 00 or to imprisonment for a term of not less than 3 years or to  
10 both such fine and imprisonment.

11 (5) Any person who, in the course of business, provides a service to  
12 another knowing that the service is to enable or assist that other person to  
13 circumvent a technological protection measure is guilty of an offence and  
14 liable on conviction to a fine of not less than N200, 000.00 or to imprisonment  
15 for a term of not less than 2 years or to both such fine and imprisonment.

Notice to Take  
Down

16 **29.-(1)** The owner of copyright in a work, in respect of which  
17 copyright has been infringed, may issue notice of such infringement to the  
18 relevant service provider requesting the service provider to take down or  
19 disable access to any infringing content or link to such content, hosted on its  
20 systems or networks.

21 (2) To be effective under this section, a notification of an alleged  
22 infringement must be made in writing to the service provider or his designated  
23 agent and shall include the following-

24 (a) a physical or electronic signature of a person authorized to act on  
25 behalf of the owner of an exclusive right that is allegedly infringed;

26 (b) identification of each work claimed to have been infringed;

27 (c) identification of the material that is claimed to be infringing or to  
28 be the subject of infringing activity and that is to be removed or access to which  
29 is to be disabled, and information reasonably sufficient to permit the service  
30 provider to locate the material;

1 (d) information reasonably sufficient to permit the service provider  
2 to contact the complaining party, such as an electronic mail address,  
3 telephone number, or a location address at which the complaining party may  
4 be contacted;

5 (e) a declaration on oath that the complaining party has good faith  
6 belief that use of the material in the manner complained of is not authorized  
7 by the owner of copyright or his agent, or the law; and

8 (f) a statement that the information in the notification is accurate,  
9 and that the complaining party is authorized to act on behalf of the owner of  
10 an exclusive right that is allegedly infringed.

11 **30.-(1)** A service provider, upon receiving notice of infringement  
12 under Section 29 shall promptly notify the subscriber responsible for the  
13 content for which the notice relates informing him of the content of the  
14 notice;

Take down of  
infringement  
content

15 (2) If within 48 hours of the receipt of the notice of the takedown  
16 the subscriber fails to provide any information justifying the continued  
17 keeping of the content complained about, the service provider shall take  
18 down or disable access to the infringing content or links to such content  
19 hosted on its systems or networks, and thereafter, notify the owner of  
20 copyright accordingly.

21 (3) Where a subscriber has provided information justifying the  
22 keeping of the content complained about, or the service provider is  
23 otherwise convinced that the complaint of the owner of copyright is without  
24 merit, he shall promptly inform the owner of copyright of his decision not to  
25 take down the content.

26 (4) The service provider may resume access to or restore removed  
27 content or a link, if he receives a written counter notice from the subscriber  
28 which he has forwarded to the owner of copyright immediately upon receipt;  
29 and he did not receive, within 10 days after forwarding the counter notice, a  
30 notice from the owner of copyright, indicating that no authorization has

1       been granted for the subscriber to make the content available.

2               (5) A service provider shall take all reasonable steps to prevent any  
3       content taken down or removed pursuant to the provisions of this Act from  
4       being reloaded onto its system or network and upon becoming aware of such  
5       content being uploaded, to promptly remove or disable access to the content  
6       without further notice to the subscriber.

7               (6) Any person dissatisfied with a determination or action by the  
8       service provider or owner of copyright under this section may refer the matter  
9       to the Commission for determination.

10              (7) A service provider shall not be liable to any person for any action  
11      taken under this section in good faith.

12              (8) A service provider who fails to comply with the provisions of  
13      subsection (1) and (2) of this section, shall be liable for such failure as a breach  
14      of statutory duty; and for infringement of the content which is subject matter of  
15      the notice under section 29 to the same extent as the person responsible for  
16      placing of such content on the system or network.

17              (9) Without prejudice to subsection (8) of this section, a service  
18      provider, who upon receipt of a notice to take down infringing contents under  
19      section 29 of this Act, and fails to comply with the provisions of subsection (1)  
20      and (2) of this section, commits an offence, and shall be liable on conviction to  
21      a fine of not less than N2,000,000 or to imprisonment for a term of not less than  
22      2 years, or to both such fine and imprisonment.

Procedure for  
suspension of  
accounts of  
repeat infringers

23              **31.-(1)** A service provider, upon receiving a notification from an  
24      owner of copyright or his authorized agent that a particular account has been  
25      engaged in repeated infringement, shall:

26              (a) promptly send a warning to the subscriber who has been identified,  
27      informing that subscriber that another notification will lead to suspension of  
28      the account and requiring the subscriber to confirm receipt of the warning; and

29              (b) after a second notification relating to the same account, if no  
30      challenge is pending pursuant to subsection (2) below, promptly suspend the

1 account for a period of at least one month.

2 (2) A subscriber receiving a warning may challenge the notice on  
3 grounds of mistake or misidentification as follows:

4 (a) Within 10 days from the date of the warning, send a signed  
5 counter-notice to the service provider, furnishing his full contact details and  
6 the factual basis of his belief that his account has been misidentified or that  
7 the use of the content was not infringing.

8 (b) If the basis for the challenge under the foregoing subsection  
9 cannot be resolved within 10 days of the receipt of the counter-notice, the  
10 matter shall be referred to the Commission to determine the validity of the  
11 challenge.

12 (3) A service provider acting in good faith in suspending the  
13 account of a subscriber, relying on the information contained in a  
14 notification referred to in the foregoing subsection shall not be liable to any  
15 person for any claim based solely on that suspension.

16 **32.** Any person who knowingly materially misrepresents under Misrepresentations  
17 this Part-

18 (a) that material or activity is infringing; or

19 (b) that material or activity was removed or disabled by mistake or  
20 misidentification; shall be liable for any damages, incurred by the alleged  
21 infringer, by any owner of copyright or other subject matter or his authorized  
22 licensee, or by a service provider, who is injured by such misrepresentation,  
23 as the result of the service provider relying upon such misrepresentation in  
24 removing or disabling access to the material or activity claimed to be  
25 infringing, or in replacing the removed material or ceasing to disable access  
26 to it.

27 **33.** Except as otherwise provided in this Act, a service provider  
28 shall not be liable for monetary relief, for infringement of copyright or other  
29 subject matter by reason of the storage at the direction of a user of material  
30 that resides on a system or network controlled or operated by or for the  
Information  
residing on systems  
or networks at  
direction of users

1 service provider, if the service provider-

2 (a) does not have actual knowledge that the material or an activity  
3 using the material on the system or network is infringing; or in the absence of  
4 such actual knowledge, is not aware of facts or circumstances from which  
5 infringing activity is apparent; or upon obtaining such knowledge or  
6 awareness, acts expeditiously to remove, or disable access to, the material;

7 (b) does not receive a financial benefit directly attributable to the  
8 infringing activity, in a case in which the service provider has the right and  
9 ability to control such activity; and

10 (c) upon notification of claimed infringement as described in section  
11 51, responds expeditiously to remove, or disable access to the material that is  
12 claimed to be infringing or to be the subject of infringing activity.

13 (d) complies with the procedure for suspension of accounts of repeat  
14 infringers as provided in this Act.

Information  
location tools

15 **34.** Except as otherwise provided in this Act, a service provider shall  
16 not be liable for monetary relief, for infringement of copyright or neighbouring  
17 rights by reason of the provider referring or linking users to an online location  
18 containing infringing material or infringing activity, by using information  
19 location tools, including a directory, index, reference, pointer, or hypertext  
20 link, if the service provider-

21 (a) does not have actual knowledge that the material or activity is  
22 infringing; or in the absence of such actual knowledge, is not aware of facts or  
23 circumstances from which infringing activity is apparent; or upon obtaining  
24 such knowledge or awareness, acts expeditiously to remove, or disable access  
25 to, the material;

26 (b) does not receive a financial benefit directly attributable to the  
27 infringing activity, in a case in which the service provider has the right and  
28 ability to control such activity; and

29 (c) upon notification of claimed infringement as described in section  
30 29, responds expeditiously to remove, or disable access to, the material that is

1 claimed to be infringing or to be the subject of infringing activity.

2           **35.**-(1) An owner of copyright or other subject matter under this      Identification of  
3 Act, or his agent may apply to the court to issue an order to a service provider      infringer  
4 for identification of an alleged infringer in accordance with this section.

5           (2) The application may be accompanied by-

6           (a) a copy of a notification described in section 29;

7           (b) a sworn declaration to the effect that the purpose for which the  
8 order is sought is to obtain the identity of an alleged infringer and that such  
9 information will only be used for the purpose of protecting rights under this  
10 Act.

11           (3) The court may issue an order to the service provider to  
12 expeditiously disclose to the owner of copyright or other subject matter  
13 under this Act, or person authorized by the owner, information sufficient to  
14 identify the alleged infringer of the material described in the notification to  
15 the extent such information is available to the service provider.

16           (4) The procedure for issuance and delivery of the order, and the  
17 remedies for noncompliance with the order, shall be governed by applicable  
18 rules of civil procedure.

19           **36.** Notwithstanding the provisions of any other law, the      Blocking access  
20 Commission may, directly or with the assistance of any other person block      to online content  
21 or disable access to any content, link or website hosted on a system or  
22 network, which it reasonably believes to infringe copyright under this Act.

23           **37.**-(1) The limitations to liability under this Part shall apply only      Application of  
24 to;      this Part

25           (a) the neutral, automatic and passive activities of a service  
26 provider; and

27           (b) service providers who do not take an active role, intervene or  
28 participate in the making available of content.

29           (2) The provisions of this Part of the Act shall be without prejudice  
30 to the powers of the court or any administrative authority to require or direct

Performer's  
Right

1 the service provider to terminate or prevent an infringement.

2 PART III - NEIGHBOURING RIGHTS (PERFORMER'S RIGHTS AND FOLKLORE)

3 **38.**-(1) A performer shall have the exclusive right to control, in  
4 relation to his performance, the following acts, that is -

5 (a) fixation of his unfixed performance;

6 (b) reproduction of a fixation of his performance, in any manner or  
7 form-

8 (i) if the original fixation, other than a fixation excluded by section 12  
9 from the necessity for obtaining the consent of the performer, was itself made  
10 without his consent; or

11 (ii) if the reproduction is made for purposes other than those in respect  
12 of which such performer gave his consent to the making of the original fixation  
13 or of a reproduction thereof; or

14 (iii) if the original fixation was made in accordance with the  
15 provisions of section 12, and the reproduction is made for purposes not covered  
16 by those provisions.

17 (c) distribution to the public by sale or other transfer of ownership, of  
18 a fixation of his performance, or copies thereof, that have not already been  
19 subject to a distribution authorised by the performer;

20 (d) broadcast or communicate to the public a performance of such  
21 performer, unless the performance used in the broadcast or the public  
22 communication is itself already a broadcast performance or is made from a  
23 fixation of the performance or from a reproduction of such a fixation; or

24 (e) rental to the public or public lending of a fixation or copies of the  
25 fixation of his performance irrespective of the ownership of the copy rented or  
26 lent;

27 (f) making available to the public of his fixed performance, by wire,  
28 wireless or online means, in such a way that members of the public may access  
29 them from a place or at a time individually chosen by them;

30 (2) In this Part, "performance" includes-

1 (a) a dramatic performance (which includes dance and mime);  
2 (b) a musical performance; and  
3 (c) a reading or recitation of literary act or any similar presentation  
4 which is or so far as it is, a live performance given by one or more  
5 individuals.

6 (3) In this part, "performer" includes actors, singers, musicians,  
7 dancers, and other persons who act, sing, deliver, declaim, play in, interpret,  
8 or otherwise perform literary or artistic works or expressions of folklore  
9 irrespective of whether the work was fixed or only fixed during  
10 performance.

11 **39.** The rights granted to a performer under this Act shall apply in Protected  
12 respect of- performances

13 (a) any performance that takes place, or is broadcast without  
14 fixation or is first fixed in Nigeria;

15 (b) any performance that takes place, or is broadcast without  
16 fixation or is first fixed in a country which by its law grants in its territory  
17 similar rights to performers in respect of performances in Nigeria.

18 **40.** In the absence of an agreement to the contrary, a performer's Presumption of  
19 consent to the broadcasting of his performance shall be deemed to include consent  
20 his consent to the rebroadcasting of his performance, the fixation of his  
21 performance for broadcasting purposes, and the reproduction for  
22 broadcasting purposes of such fixation.

23 **41.-(1)** A performer shall have the right- Moral rights of

24 (a) to be identified as the performer in connection with any use of performers  
25 his performance or the fixation thereof; and

26 (b) to object to, and prevent any distortion, mutilation or other  
27 modification of his performance or the fixation thereof, and any other  
28 derogatory action in relation thereto where such action would be or is  
29 prejudicial to his honour or reputation.

30 (2) The rights referred to in subsection (1) of this section shall not

1 be transmissible during the life of the performer, but upon his death, shall be  
2 transmissible by testamentary disposition or by operation of law.

3 (3) The rights conferred by this section shall subsist for the duration of  
4 the performer's right

Collective  
performances

5 42. Where several performers as a group take part in the same  
6 performance, it shall suffice if the consent required under is given by any  
7 person in charge of the group and any payment for the use of the performance  
8 may, unless otherwise stipulated, be made to such person.

Exception to  
performer's  
rights

9 43.-(1) If a performer consents to the incorporation of his  
10 performance in a visual or audio-visual fixation, section 62 shall cease to apply  
11 in respect of the performance so fixed.

12 (2) A performance, a fixation of a performance or a reproduction of  
13 such a fixation may be used without the consent required

14 (a) if it is for the purpose of judicial, legislative or administrative  
15 proceedings;

16 (b) if it is for the demonstration of recording, amplifying or similar  
17 apparatus, provided that the demonstration is made by a licensed dealer on his  
18 premises to a specific client;

19 (c) reproduction of short extracts from an object of performer's rights  
20 in reports on current events, to the extent justified by that purpose;

21 (d) use for the purpose of research or private study of an object of  
22 performer's rights kept in publicly accessible libraries, educational  
23 establishments, museums or archives, on the premises of the said institutions;

24 (e) making of an ephemeral recording of an object of performer's  
25 rights by broadcasting organizations by means of their own facilities and for  
26 their own broadcasts. Such recordings may be preserved for a period not  
27 exceeding thirty days and must be erased after their use for broadcasting. The  
28 recordings of an exceptional documentary character may be transferred to  
29 designated archives for preservation;

30 (f) reproduction for the benefit of people with a disability, which is

1 directly related to the disability and of a non-commercial nature, to the  
2 extent required by the disability;

3 (g) use for the sole purpose of illustration for teaching or scientific  
4 research, criticism or review, as long as the source, including the author's  
5 name, is indicated, unless this turns out to be impossible and to the extent  
6 justified by the non-commercial purpose to be achieved;

7 (h) incidental inclusion of an object of performer's rights in other  
8 material;

9 (4) Except as specifically provided for under this section, the  
10 exceptions from copyright protection provided in Schedule II of this Act,  
11 shall apply mutatis mutandis in respect of performances.

12 **44 .-(1)** The provisions of section 11 of this Act shall apply mutatis  
13 mutandis to performer's rights.

Transfer of  
performer's rights

14 (2) A performer who has authorized the fixation of his performance  
15 shall, in the absence of any agreement to the contrary, be deemed to have  
16 granted to the person by whom the arrangements for such fixation is made,  
17 the exclusive right to receive remuneration in respect of any broadcast,  
18 transmission or communication to the public of such fixed performance:  
19 provided that the performer is entitled to share in any payment received by  
20 the person who arranges for the fixation, or his successor in title.

21 (3) In the absence of any agreement between the performer and the  
22 person by whom arrangement for the fixation is made, on or relating to how  
23 the remuneration referred to in subsection (1) may be shared, either of the  
24 parties may refer the matter to the Commission to determine the proportion  
25 of remuneration due to each party.

26 **45.** The right conferred by section 40 of this Act shall subsist in  
27 relation to the performance until the end of the period of fifty years from the  
28 end of the year in which the performance first took place.

Terms of  
performer's  
right

29 **46.** Performer's right is infringed by a person who, without the  
30 performer's consent or authorisation, does any of the following, that is-

Infringement of  
performer's right

1 (a) makes a recording of the whole or substantial part of a live  
2 performance;

3 (b) communicates to the public, broadcasts live, or includes live in a  
4 cable programme, the whole or a substantial part of the live performance;

5 (c) performs in public the whole or a substantial part of the  
6 performance;

7 (d) shows or plays in public the whole or a substantial part of the  
8 performance for commercial purposes;

9 (e) broadcasts, or includes in a cable programme, a substantial part of  
10 the performance by means of recording which is, and which that person knows  
11 or has reason to believe was made without the performer's consent;

12 (f) imports into the country otherwise than for his private or domestic  
13 use, a recording of a performer's work which is an infringing recording; or

14 (g) in the course of trade or business, sells or lets for hire, offers,  
15 distributes or displays for sale or hire a recording of a performer's work which  
16 is an infringing recording.

Action for  
infringement of  
performer's right

17 **47.-(1)** An infringement of a right protected shall be actionable by the  
18 person entitled to the right as a breach of statutory duty and the performer shall  
19 be entitled to damages, injunction, account of profits or conversion.

20 (2) Where a person has in his possession, custody or control, in the  
21 course of trade or business or otherwise than for a private or domestic use, an  
22 unauthorized recording of a performance, a person having the performer's right  
23 or recording rights in relation to the performance under this section shall be  
24 entitled to an order of the court that the recording be forfeited and delivered up  
25 to him.

Criminal liability  
in respect of  
infringement of  
performer's right

26 **48.-(1)** A person who does any of the acts set out in section 38 shall,  
27 unless he proves to the satisfaction of the court that he did not know that his  
28 conduct was an infringement of the performer's right, be guilty of an offence  
29 and liable on conviction-

30 (a) in the case of an individual, to a fine of not less than N1,000,00.00

1 or to imprisonment for a term of not less than 12 months or to both such fine  
2 and imprisonment; and

3 (b) in the case of a body corporate, to a fine of not less than  
4 N5,000,000.00.

5 (2) A court before which an offence under this section is tried may  
6 order that the recording or any other part thereof be delivered to the  
7 performer.

8 **49.**-(1) Expressions of folklore are protected against-

Protection of  
expressions of  
folklore

9 (a) reproduction;

10 (b) communication to the public by performance, broadcasting,  
11 distribution by cable or other means;

12 (c) adaptations, translations and other transformations,  
13 when such expressions are made either for commercial purposes or outside  
14 their traditional or customary context.

15 (2) The right conferred in subsection (1) of this section shall not  
16 include the right to control-

17 (a) the doing of any of the acts by way of fair dealing for private and  
18 domestic use, subject to the condition that, if the use is public, it shall be  
19 accompanied by an acknowledgement of the title of the work and its source;

20 (b) the utilisation for purposes of education;

21 (c) utilisation by way of illustration in an original work of an  
22 author:

23 Provided that, the extent of such utilisation is compatible with fair practice;

24 (d) the borrowing of expressions of folklore for creating an original  
25 work of an author:

26 Provided that, the extent of such utilisation is compatible with fair practice;

27 (e) the incidental utilisation of expressions of folklore.

28 (3) In all printed publications and in connection with any  
29 communications to the public, of any identifiable expression of folklore, its  
30 source shall be indicated in an appropriate manner, and in conformity with

1 fair practice, by mentioning the community or place from where the expression  
2 utilised has been derived.

3 (4) The right to authorise acts referred to in subsection (1) of this  
4 section shall vest in the Nigerian Copyright Commission.

5 (5) For the purpose of this section, "folklore" means a group-oriented  
6 and tradition-based creation of groups or individuals reflecting the expectation  
7 of the community as an adequate expression of its cultural and social identity,  
8 its standards and values as transmitted orally, by imitation or by other means  
9 including-

10 (a) folklore, folk poetry, and folk riddles;

11 (b) folk songs and instrumental folk music;

12 (c) folk dances and folk plays;

13 (d) productions of folk arts in particular, drawings, paintings,  
14 carvings, sculptures, pottery, terracotta, mosaic, woodwork, metalware,  
15 jewelry, handicrafts, costumes, and indigenous textiles.

Infringement  
of folklore

16 **50.** Any person who, without the consent of the Nigerian Copyright  
17 Commission, uses an expression of folklore in a manner not permitted by  
18 section 49 of this Act, shall be in breach of statutory duty and be liable to the  
19 Commission in damages, injunctions and any other remedies as the court may  
20 deem fit to award in the circumstances.

Criminal liability  
in respect of  
infringement  
of folklore

21 **51.-(1)** A person who-

22 (a) does any of the acts set out in sections 49 or 50 of this Act without  
23 the consent or authorisation of the Commission; or

24 (b) does not comply with the requirement in subsection (4) of section  
25 49 of this Act; or

26 (c) wilfully misrepresents the source of an expression of folklore; or

27 (d) wilfully distorts an expression of folklore in a manner prejudicial  
28 to the honour, dignity or cultural interests of the community in which it  
29 originates; or

30 (e) is guilty of an offence under this Act.

1 (2) A person convicted of an offence under subsection (1) of this  
2 section is liable on conviction-

3 (a) in the case of an individual, to a fine not exceeding N100,000 or  
4 to imprisonment for a term of 12 months or to both such fine and  
5 imprisonment; and

6 (b) in the case of a body corporate, to a fine of N500,000.

7 (3) A court before which an offence under this section is tried may  
8 order that the infringing or offending article be delivered to the  
9 Commission.

10 PART IV - ADMINISTRATION OF COPYRIGHT

11 **52-**(1) There is hereby established a body to be known as the  
12 Nigerian Copyright Commission (in this Act referred to as "the  
13 Commission").

Establishment  
of the Nigerian  
Copyright  
Commission

14 (2) The Commission shall be a body corporate with perpetual  
15 succession and a common seal and may sue and be sued in its corporate  
16 name.

17 (3) The Commission shall-

18 (a) be responsible for all matters affecting copyright in Nigeria as  
19 provided for in this Act;

20 (b) monitor and supervise Nigeria's position in relation to  
21 international conventions and advise Government thereon;

22 (c) advise and regulate conditions for the conclusion of bilateral  
23 and multilateral agreements between Nigeria and any other country;

24 (d) enlighten and inform the public on matters relating to  
25 copyright;

26 (e) maintain an effective data bank on authors and their works;

27 (f) be responsible for such other matters as relate to copyright in  
28 Nigeria as the Minister may, from time to time, direct.

29 **53-**(1) The Commission shall have a Governing Board (in this Act  
30 referred to as "the Board") which shall consist of the following members-

Establishment,  
Membership and  
Functions of the  
Governing Board

- 1 (a) a Chairman to be a person knowledgeable in copyright matters, to  
2 be appointed by the President on the recommendation of the Minister;
- 3 (b) the Director-General of the Commission;
- 4 (c) one representative of the Federal Ministry Justice;
- 5 (d) one representative of the Federal Ministry of Education;
- 6 (e) a representative of the Nigeria Police Force, not below the rank of  
7 a Commissioner of Police;
- 8 (f) one representative of the Nigerian Customs Service, not below the  
9 rank of a Comptroller of Customs;
- 10 (g) six other persons to be appointed by the Minister who shall  
11 represent as far as possible the authors in the following areas-
- 12 (i) literary works;
- 13 (ii) artistic works;
- 14 (iii) musical works;
- 15 (iv) audiovisual works;
- 16 (v) sound recordings; and
- 17 (vi) broadcasts.
- 18 (2) The representative of the Ministries shall be officers not below the  
19 rank of a Director.
- 20 (3) The Board shall adopt rules governing its procedure and method  
21 of operation.
- 22 **54.**-(1) There shall be for the Commission, a Director-General who  
23 shall be appointed by the President on the recommendation of the Minister.
- 24 (2) A person to be appointed as the Director General of the  
25 Commission shall be a legal practitioner of not less than ten years post-call  
26 experience and knowledgeable in copyright law and administration.
- 27 (3) The Director-General shall be responsible for the day-to-day  
28 administration of the Commission.
- 29 (4) Without prejudice to the generality of subsection (1) of this  
30 section, the Commission shall have power-

Appointment of  
the Director-  
General and other  
staff of the  
Commission

1 (a) to appoint such other staff as it may determine;  
2 (b) to pay its staff such remuneration and allowances as it may,  
3 from time to time, determine;

4 (c) as regards any staff in whose case it decides so to do, to pay to or  
5 in respect of such staff such pensions and gratuities as are payable to persons  
6 of equivalent grade in the public service of the Federation.

7 (5) It is hereby declared that service in the Commission shall be  
8 approved service for the purposes of the Pensions Act, and accordingly,  
9 officers and other persons employed in the Council shall be entitled to  
10 pensions, gratuities and other retirement benefits as are prescribed  
11 thereunder, so however that nothing in this section shall prevent the  
12 appointment of a person to any office on terms which preclude the grant of a  
13 pension and gratuity or any other retirement benefit in respect of that office.

14 (6) For the purpose of the application of the provisions of the  
15 Pensions Act, any powers exercisable thereunder by a Minister or other  
16 authority are hereby vested in and exercisable by the Commission.

17 **55.**-(1) The Commission may constitute a dispute resolution panel  
18 (hereinafter referred to as "the Panel") to resolve any dispute in respect of  
19 payment of royalties or terms of a licence; or determine any matter in respect  
20 of which a determination by the Commission is required under this Act.

Establishment  
of dispute  
resolution panel

21 (2) The Panel shall comprise of three persons knowledgeable in  
22 copyright matters, one of whom shall be designated as chairman.

23 (3) A person shall not be appointed as a member of the Panel if he  
24 has any interest in any matter which is required to be determined by the  
25 Panel.

26 (4) Where proceedings before the Panel has been commenced and  
27 a member of the Panel is unable to continue, the Panel shall remain duly  
28 constituted for the purpose of those proceedings so long as two members  
29 remain.

30 (5) The Commission shall make regulations providing for the

1 procedure of the Panel.

2 (6) Any person dissatisfied with a decision of the Panel may apply to  
3 the court for a review of the decision.

4 **56.**-(1) The Commission may appoint copyright inspectors as it may  
5 deem fit.

6 (2) A copyright inspector shall for the purposes of this Act have the  
7 power-

8 (a) to enter, inspect and examine at any reasonable time any building  
9 or premises which he reasonably suspects is being used for any activity which  
10 is an infringement of copyright under this Act;

11 (b) to arrest any person who he reasonably believes to have  
12 committed an offence under this Act;

13 (c) to make such examination and inquiry as may be necessary to  
14 ascertain whether the provisions of this Act are complied with;

15 (d) to require the production of the record required to be kept under  
16 this Act and to inspect, examine or copy it;

17 (e) to demand information and access any database relating to  
18 copyright;

19 (f) to require any person who, he finds in such building or premises  
20 to give such information as it is in his power to give in relation to any purposes  
21 specified in this Act and seize, confiscate, take into custody any infringing  
22 copy, contrivance, material, equipment used in committing an offence under  
23 this Act;

24 (g) seal up premises and carry out such examination, test or analysis  
25 within or outside the premises as is required to give effect to any provision of  
26 this act and to take instant photographs where such examination, test, analysis  
27 or photograph is carried out within the premises and such examination, test,  
28 analysis or photograph shall be required to be endorsed by the occupier of the  
29 premises or his agent but a refusal by an occupier to endorse any document  
30 containing the result of an examination, test, analysis or photograph shall not

1 invalidate the result or finding of the examination, test, analysis or  
2 photograph; and

3 (h) to exercise such other powers as the Commission may delegate  
4 to it to give effect to the provisions of this Act;

5 (3) A copyright inspector may prosecute, conduct or defend before  
6 a court any charge, information, complaint or other proceedings arising  
7 under this Act.

8 (4) Any person who obstructs a copyright inspector in the  
9 performance of his duties shall be guilty of an offence and liable on  
10 conviction to a fine of not less than N100,000.00 or to imprisonment for a  
11 term of not less than 12 months or to both such fine and imprisonment.

12 (5) A Copyright Inspector shall have all the powers, rights and  
13 privileges of a police officer as defined under the Police Act and under any  
14 other relevant enactment pertaining to the investigation, prosecution or  
15 defence of a civil or criminal matter under this Act.

16 57.-(1) The Commission shall establish and maintain a Register of  
17 works as a database, Provided Always that a work shall not be ineligible for  
18 copyright protection by virtue of the fact that it is not registered by the  
19 Commission.

Database of  
works

20 (2) Without prejudice to the sections conferring copyright under  
21 this Act, all works eligible for copyright protection may be registered in the  
22 Register upon an application made in the prescribed form by or on behalf of  
23 the author, owner, assignee or exclusive licensee of the work provided that  
24 the registration of work does not confer copyright.

25 (3) The Register shall be prima facie evidence of the particulars  
26 entered therein and documents purporting to be copies of any entries therein  
27 or extract there from certified by the Commission shall be admissible in  
28 evidence in all proceedings without further proof or production of the  
29 original.

30 (4) The Commission shall have power to reproduce and store all or

Collective  
management  
organizations

1 any part of the registered works in an electronic or any other format.

2 (5) The Commission may, with the approval of the Minister, make  
3 regulations for the purpose of this section.

4 (6) Any person who makes or causes to be made a false entry in the  
5 Register shall be guilty of an offence under this section and be liable on  
6 conviction to a fine of not less than N200,000. 00 or to imprisonment for a term  
7 of not less than 2 years or to both such fine and imprisonment.

8 **58.-(1)** A collective management organization (in this section referred  
9 to as "a CMO") may be formed in respect of any one or more rights of copyright  
10 owners for the benefit of such owners, and the CMO may apply to the  
11 Commission for approval to operate as a collective management organization  
12 for the purpose of this Act.

13 (2) The Commission may approve a CMO if it is satisfied that-

14 (a) it is incorporated as a company limited by guarantee;

15 (b) its objects are to carry out the general duty of negotiating and  
16 granting copyright licenses and collecting royalties on behalf of copyright  
17 owners and distributing same to them;

18 (c) it represents a substantial number of owners of copyright in any  
19 category of works protected by this Act;

20 (d) it complies with the terms and conditions prescribed by  
21 regulations made by the Commission under this section.

22 (3) The Commission shall not approve another CMO in respect of any  
23 class of copyright owners if it is satisfied that an existing approved CMO  
24 adequately protects the interests of that class of copyright owners.

25 (4) It shall be unlawful for any group of persons, howsoever  
26 described, to purport to perform the duties of a CMO without the approval of  
27 the Commission as required under this section.

28 (5) Any person who contravenes the provisions of subsection (4) of  
29 this section shall be guilty of an offence and liable on conviction to a fine of not  
30 less than N1,000,000.00 or to imprisonment for a term of not less than 3 years or

1 to both such fine and imprisonment.

2 (6) Where the contravention is by a body corporate, it shall be  
3 guilty of an offence and liable on conviction to a fine of not less  
4 than N5,000,000.00.

5 (7) The Commission shall have power to make regulations  
6 specifying the conditions necessary to give effect to the purposes of this  
7 section of this Act.

8 (8) For the purposes of this section-

9 "collective management organization" means an organisation representing  
10 copyright owners, which has as its principal objectives the negotiating and  
11 granting of licenses, collecting and distributing of royalties in respect of  
12 copyright works;

13 "group of persons" includes "a body corporate".

14 "owners of copyright" includes owners of performer's rights;

15 (9) The Commission may, where it finds it expedient, assist in  
16 establishing a collective management organization for any class of  
17 copyright owners.

18 (10) Notwithstanding the provisions of this Act or any other law, a  
19 CMO may issue licences permitting the use of works of owners of copyright  
20 who are not members of the CMO:

21 Provided that:

22 (a) such works are of the same category as works for which it is  
23 approved to issue licences;

24 (b) the owner of copyright in such works are not otherwise  
25 represented by any other CMO;

26 (c) the owner of copyright in such works have not by written notice  
27 to the CMO, opted out of collective management of their rights; and

28 (d) the CMO does not discriminate against such owner in terms of  
29 the tariffs for the use of their works and the royalties paid to such owner.

## Compensation for private copying

**59.-** (1) There shall be paid compensation on every material capable used to reproduce a work;

(2) The compensation payable under this section and any exemptions therefrom shall be as may be prescribed by the Minister by Order published in the *Gazette*, and different rates of compensation may be prescribed for different categories of materials.

(3) The compensation payable under this section shall, subject to deductions, be disbursed to approved Collective Management Organisations in accordance with the regulation made by the Commission.

(4) In this section, "material" includes any object, equipment, machine, contrivances or any other device used or capable of being used to reproduce a work.

## PART V - MISCELLANEOUS

## Levy on copyright material

**60.-(1)** There shall be paid a levy on any material used or capable of being used to infringe copyright in a work.

(2) The levy payable under subsection (1) of this section shall be as may be determined by the Minister, from time to time, by order published in the Gazette and different levies may be imposed on different categories of material.

(3) The levy shall be paid into the Fund of the Commission and the Commission shall have power to disburse the funds amongst approved societies in accordance with the regulations made by the Commission.

(4) The Minister shall have power to exempt any class of materials from the repayment of any levy.

(5) In this section, "material" includes any object, equipment, machine, contrivances or any other device used or capable of being used to infringe copyright in a work.

Reciprocal extension of protection

**61.** Where any country is a party to a treaty or other international agreement to which Nigeria is also a party and the Minister is satisfied that the country in question provides for protection of copyright in works which are

1       protected under this Act, the Minister may by order in the Federal Gazette  
2       extend the application of this Act in respect of any or all of the works referred  
3       to in subsection (1) of section 1 of this Act to-

- 4               (a) individuals who are citizens of or domiciled in that country;  
5               (b) bodies corporate established by or under the law of that  
6       country;  
7               (c) works, other than sound recordings and broadcasts, first  
8       published in that country; and  
9               (d) broadcast and sound recordings made in that country.

10       **62.-(1)** An affidavit made before a Commissioner for Oaths,  
11       Notary Public or other person competent to administer an oath in terms of  
12       the law of the country where the oath is made which-

Admission of  
affidavit evidence

- 13               (a) purports to have been made by or on behalf of the owner of the  
14       copyright in a work; and  
15               (b) states that-  
16               (i) at the time specified therein, copyright subsists in the work;  
17               (ii) the person named therein is the owner of the copyright in the  
18       work;  
19               (iii) a copy of the work exhibited to the affidavit is a true copy of the  
20       work;  
21               (iv) the author of the work is a citizen of or domiciled in a country  
22       named in the affidavit;  
23               (v) the author of the work is a body corporate established;  
24               (vi) incorporated by or under the laws of the country named in the  
25       affidavit;  
26               (vii) the work was first made or published in the country named in  
27       the affidavit; or  
28               (viii) the certificate attached to the affidavit is a true copy of the  
29       certificate or registration of that incorporation, shall be admitted as evidence

1 of the facts stated therein without further proof in any proceedings under this  
2 Act.

3 (2) The court before which an affidavit is produced under subsection  
4 (1) of this section shall presume, until the contrary is proved, that the  
5 statements made therein are true.

Presumptions

6 **63.** In any action for an infringement of copyright in a work, the  
7 following shall be presumed, in the absence of any evidence to the contrary-

8 (a) that copyright subsists in a work which is the subject matter of an  
9 alleged infringement;

10 (b) that the plaintiff is the owner of copyright in the work;

11 (c) that the name appearing on a work purporting to be the name of the  
12 author, is the name of such author;

13 (d) that the name appearing on a work purporting to be that of the  
14 publisher or producer of a work is the name of such publisher or producer;

15 (e) where the author is dead, that the work is an original work;

16 (f) that it was published or produced at the place and on the date  
17 appearing on the work.

Restriction on  
importation of  
infringement  
copies

18 **64.** -(1) The owner of the copyright in any published literary, artistic  
19 or musical work, sound recording, or audiovisual work may give notice in  
20 writing to the Nigerian Customs Service-

21 (a) that he is the owner of the copyright in the work; and

22 (b) that he requests the Nigerian Customs Service during the period  
23 specified in the notice, to treat as prohibited goods, copies of the work to which  
24 this section applies:

25 Provided that, the period specified in a notice under this subsection  
26 shall not exceed five years and shall not extend beyond the end of the period for  
27 which the copyright is to subsist.

28 (2) This section applies, in the case of a work, to any printed copy  
29 made outside Nigeria which, if it had been made in Nigeria, would be an  
30 infringing copy of the work.

1           (3) Where a notice has been given under this section in respect of a  
2       work and has not been withdrawn, the importation into Nigeria, at a time  
3       before the end of the period specified in the notice, of any copy of the work to  
4       which this section applies shall, subject to the following provisions of this  
5       section, be prohibited:

6           Provided that, this subsection shall not apply to the importation of  
7       any article by a person for his private and domestic use.

8           (4) Where a notice is given under subsection (1) of this section in  
9       respect of any work, neither the Nigerian Customs Service nor any member,  
10      officer, servant or agent of the Nigerian Customs Service shall be liable to  
11      the owner of the work or to any other person for any act or omission by the  
12      Nigerian Customs Service or its servants or agents in relation to the notice:

13      Provided that, where the owner has suffered loss as a result of any such act or  
14      omission and a fee has been paid or is payable to the Nigerian Customs  
15      Service in respect of the notice, an amount equal to the loss or to the amount  
16      of the fee for one year, whichever is less, shall be repaid by the Nigerian  
17      Customs Service to the owner or, if the fee has not been paid, shall be  
18      waived.

19           (5) The Minister of Interior may make regulations prescribing the  
20      form in which notices are to be given under this section, and requiring a  
21      person giving such a notice, either at the time of giving the notice or at the  
22      time when the goods in question are imported, or at both of those times, to  
23      furnish the Nigerian Customs Service with such evidence, and to comply  
24      with such other conditions (if any), as may be specified in the regulations;  
25      and any such regulations may include such incidental and supplementary  
26      provisions as the Minister of Interior considers expedient for the purposes of  
27      this section.

28           (6) Without prejudice to the generality of subsection (5) of this  
29      section, regulations made under that subsection may include provision for  
30      requiring a person who has given a notice purporting to be a notice under this

1 section to pay such fees in respect of the notice as may be prescribed by the  
2 regulations.

3 (7) For the purposes of the Customs and Excise Management Act,  
4 any fees paid in pursuance of any regulations made under this section shall be  
5 treated as money collected on account of the Nigerian Customs Service.

6 [Cap. C45.]

7 (8) Notwithstanding anything in the Customs and Excise  
8 Management Act, a person shall not be liable to any penalty under that Act  
9 (other than forfeiture of the goods) by reason that any goods are treated as  
10 prohibited goods by virtue of this section.

11 [Cap. C45.]

12 (9) This section shall have effect as if it formed part of the Customs  
13 and Excise Management Act.

Regulations

14 **65.**-(1) Where no other provision is made in that behalf, the Minister  
15 may make regulations prescribing anything required to be prescribed for the  
16 purposes of this Act.

17 (2) Regulations may be made-

18 (a) in the case of works, the copyright in which is vested in the  
19 Government, by the Minister with the prior consent of the President; and

20 (b) in the case of works, the copyright in which is vested in a State  
21 authority, by the State authority or a person designated by the State authority,  
22 prescribing the public officer or other authority by whom licences may be  
23 granted for the reproduction of the works in question and a scale of fees to be  
24 charged in respect of any such licence.

25 (3) Regulations made under subsection (2) of this section shall be  
26 additional to and not in derogation of any enactment or other law regulating the  
27 custody of the National Archives of Nigeria or the public records of a State.

28 (4) The Commission shall, with the consent of the Minister, have  
29 power to make regulations specifying the conditions necessary for the  
30 operation of a business involving the production, public exhibition, hiring or

1 rental of any work in which copyright subsists under this Act.

2                   **66.** The Federal High Court shall have exclusive jurisdiction for     Jurisdiction  
3     the trial of offences or disputes under this Act.

4	<b>67.-(1)</b> Notwithstanding anything in any other enactment, no suit	Limitation on
5	against the Commission, a member or any staff of the Commission, for an	suit against the
6	act done-	Commission, etc.

7 (a) in pursuance or execution of his duties under this Act or any  
8 other enactment or law; or

(b) in respect of any alleged neglect or default in the execution of this Act or any other enactment, shall lie or be instituted in any court unless, the suit is commenced within twelve months next after the act, neglect or default complained of or where the damage or injury continues within twelve months next after the damage or injury cases.

(2) No suit shall be commenced against the Commission or any member of staff of the Commission before the expiration of a period of three months after written notice of intention to commence the suit is served upon the Commission by the intending plaintiff or his agent.

(3) The notice referred to in subsection (2) of this section shall clearly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

21                   68. A notice, summons, or other document required or authorised      Service of  
22                   to be served upon the Commission under the provisions of this Act or any      documents  
23                   other enactment or law, may be served by delivering the same to the  
24                   Director-General of the Commission or by sending it by registered post  
25                   addressed to the Director-General at the office of the Commission.

26	<b>69.-(1)</b> In any action or suit against the Commission, no execution	Restriction on execution against the property of the Commission
27	or attachment or process in the nature thereof shall be issued against the	
28	Commission.	

(2) Any sum of money which is by judgment of a court awarded against the Commission shall, subject to any direction given by the court

	1	where notice of appeal has been given by the Commission in respect of the
	2	judgment, be paid by the Commission from its general fund.
Power of the Minister to give directives	3	<b>70.</b> The Minister may give to the Commission directives of a general
	4	or special character with respect to any of the functions of the Commission
	5	under this Act and it shall be the duty of the Commission to comply with such
	6	directives.
Interpretation	7	<b>71.-(1)</b> In this Act, unless the context otherwise requires-
	8	"adaptation" means the modification of pre-existing work from one genre of
	9	work to another and consists in altering work within the same genre to make it
	10	suitable for different conditions of exploitation, and may also involve altering
	11	the composition of the work;
	12	"artistic work" includes, irrespective of artistic quality, any of the following
	13	works or works similar thereto-
	14	(a) paintings, drawings, etchings, lithographs, woodcuts, engravings
	15	and prints;
	16	(b) maps, plans and diagrams;
	17	(c) works of sculpture;
	18	(d) photographs not comprised in a audiovisual works;
	19	(e) works of architecture in the form of buildings models; and
	20	(f) works of artistic craftsmanship and also (subject to subsection (3)
	21	of section 1 of this Act) pictorial woven tissues and articles of applied
	22	handicraft and industrial art;
	23	"audiovisual works" includes:
	24	(a) the first fixation of a sequence of visual images capable of being
	25	shown as a moving picture and of being the subject of reproduction, and
	26	includes the recording of a sound track associated with the audiovisual works
	27	and
	28	(b) the aggregate of a series of related visual images with or without
	29	sound, which is capable of being shown as a moving picture by means of a
	30	mechanical, electronic or other device and irrespective of the nature of the

- 1 material on which the visual images and sounds are carried and includes the  
2 sound track, but does not include a broadcast;
- 3 "author" in the case of audiovisual works, means the person by whom the  
4 arrangements for the making of the film were made, unless the parties to the  
5 making of the film provide otherwise by contract between themselves;
- 6 "author" in the case of literary, artistic or musical works, means the creator  
7 of the work;
- 8 "author" in the case of a photographic work, means the person who took the  
9 photograph;
- 10 "author" in the case of a broadcast transmitted from within any country,  
11 means the person by whom the arrangements for the making or the  
12 transmission from within that country were undertaken;
- 13 "author" in the case of a sound recording, means the person by whom the  
14 arrangements for the making of the sound recording were made, except that  
15 in the case of a sound recording of a musical work, "author" means the artist  
16 in whose name the recording was made, unless in either case the parties to  
17 the making of the sound recording, provide otherwise by contract;
- 18 "broadcast" means sound or television broadcast by wireless telegraph or  
19 wire or both, or by satellite or cable programmes and includes re-broadcast;
- 20 "broadcasting authority" means any legal person established under any law  
21 in Nigeria or elsewhere providing broadcasting services for public  
22 reception;
- 23 "building" includes any structure;
- 24 "cable programmes" means visual images, sounds or other information sent  
25 by means of a telecommunication system otherwise than by wireless  
26 telegraph for reception-
- 27 (a) at two or more places (whether for simultaneous reception or at  
28 different times) in response to request by different users; or
- 29 (b) for presentation to members of the public;
- 30 "choreographic work" means a composition of movements for dancing or

- 1 any other patterned succession of gestures mostly created to accompanying  
2 music;
- 3 "communication to the public" includes, in addition to any live performance or  
4 delivery, any mode of visual or acoustic presentation, but does not include a  
5 broadcast or re-broadcast;
- 6 "computer programme" means a set of statements or instructions to be used  
7 directly or indirectly in a computer in order to bring about a certain result;
- 8 "copy" means a reproduction in any form including a transient or digital copy;
- 9 "copyright" means copyright under this Act;
- 10 "court" means the Federal High Court;
- 11 "exclusive licence" means a licence signed by or on behalf of a copyright  
12 owner, authorising the licensee to the exclusion of all other persons (including  
13 the person granting the licence), to exercise any right which would otherwise  
14 be exercisable exclusively by the copyright owner;
- 15 "licence" means a lawfully granted licence permitting the doing of an act  
16 controlled by this Act;
- 17 "literary work" includes, irrespective of literary quality, any of the following  
18 works or works similar thereto-
- 19 (a) novels, stories and poetical works;
- 20 (b) plays, stage directions, film scenarios and broadcasting scripts;
- 21 (c) choreographic works;
- 22 (d) computer programmes;
- 23 (e) text-books, treatises, histories, biographies, essays and articles;
- 24 (f) encyclopaedias, dictionaries, directories and anthologies;
- 25 (g) letters, reports and memoranda;
- 26 (h) lectures, addresses and sermons;
- 27 (i) law reports, excluding decisions of courts;
- 28 (j) written tables or compilations;
- 29 "Minister" means the Minister of Justice;
- 30 "musical work" means any musical composition, irrespective of musical

- 1        quality and includes works composed for musical accompaniment;
- 2        "re-broadcast" means a simultaneous or subsequent broadcast by one
- 3        broadcasting authority of the broadcast of another broadcasting authority;
- 4        "reproduction" means the making of one or more copies of a literary,
- 5        musical or artistic work, audiovisual works or sound recording;
- 6        "sound recording" means the first fixation of a sequence of sound capable of
- 7        being perceived aurally and of being reproduced, but does not include a
- 8        soundtrack associated with a audiovisual works;
- 9        "State authority" in relation to a State, means the Governor or other
- 10       governmental authority of a State;
- 11       "work" includes translations, adaptation, new versions or arrangements of
- 12       pre-existing works, and anthologies or collection of works which, by reason
- 13       of the selection and arrangement of their content, present an original
- 14       character;
- 15       "work of joint authorship" means a work produced by the collaboration of
- 16       two or more authors in which the contribution of each author is inseparable
- 17       from the contribution of the other author or authors;
- 18       "year" means-
- 19                (a) in section 64 of this Act, a period of twelve months; and
- 20                (b) elsewhere in this Act, a calendar year, that is to say, a period of
- 21       twelve months beginning on 1 January and ending on 31 December.
- 22        (2)    The following provisions shall apply with respect to
- 23        publication, that is to say-
- 24                (a) a work shall be deemed to have been published if copies of it
- 25        have been made available in a manner sufficient to render the work
- 26        accessible to the public;
- 27                (b) where in the first instance, a part only of a work is published,
- 28        that part shall be treated for the purposes of this Act as a separate work;
- 29                (c) a publication in any country shall not be treated as being other
- 30        than the first publication by reason only of an earlier publication elsewhere

	1	if the two publications took place within a period of not more than 30 days.
Repeals and Transitional, etc., Provisions	2	<b>72.-(1)</b> The Copyright Act, Cap C28 2004 is hereby repealed.
	3	(2) Sections 491, 492 and 493 of the First Schedule to the Criminal
	4	Code Act and sections 426 and 427 of the Penal Code are hereby repealed.
	5	<i>[Cap. C38.]</i>
	6	(3) The Transitional and Savings Provisions in the Fifth Schedule to
	7	this Act shall have effect notwithstanding subsection (1) of this section or any
	8	other provisions of this Act.
	9	<i>[Fifth Schedule.]</i>
Short title	10	<b>73.</b> This Bill may be cited as the Copyright Act Repeal and Re-
	11	enactment Bill, 2021.

## 1 SCHEDULES

## 2 FIRST SCHEDULE

## 3 TERMS OF COPYRIGHT

4 *[Section 2.]*

5 Type of work: Date of expiration of copyright

6 1. Literary, musical or artistic works other than photographs -  
7 Seventy years after the end of the year in which the author dies; in the case of  
8 a government or a body corporate, seventy years after the end of the year in  
9 which the work was first published.

10 2. Audiovisual works and photographs - Fifty years after the  
11 end of the year in which the work was first published.

12 3. Sound recordings - Fifty years after the end of the year in  
13 which the recording was first published.

14 4. Broadcasts - Fifty years after the end of the year in which the  
15 broadcast first took place.

## 16 SECOND SCHEDULE

## 17 EXCEPTIONS FROM COPYRIGHT CONTROL

18 *[Sections 6, 7 and 8.]*

19 1. The exclusive right conferred in respect of a work by this Act  
20 does not include the right to control-

21 (a) the doing of any of the acts mentioned in the said section 6 by  
22 way of fair dealing for purposes of research, private use, criticism or review  
23 or the reporting of current events, subject to the condition that, if the use is  
24 public, it shall be accompanied by an acknowledgement of the title of the  
25 work and its authorship except where the work is incidentally included in a  
26 broadcast;

27 (b) the doing of any of the aforesaid acts by way of parody,  
28 pastiche, or caricature;

29 (c) the inclusion in a film or a broadcast of an artistic work situated  
30 in a place where it can be viewed by the public;

- 1 (d) the reproduction and distribution of copies of any artistic work  
2 permanently situated in a place where it can be viewed by the public;
- 3 (e) the incidental inclusion of an artistic work in a film or broadcast;
- 4 (f) the inclusion in a collection of literary or musical work which  
5 includes not more than two excerpts from the work, if the collection bears a  
6 statement that it is designed for educational use and includes an  
7 acknowledgement of the title and authorship of the work;
- 8 (g) any use made of a work in an approved educational institution for  
9 the educational purposes of that institution, subject to the condition that, if a  
10 reproduction is made for any such purpose it shall be destroyed before the end  
11 of the prescribed period, or if there is no prescribed period, before the end of the  
12 period of 12 months after it was made;
- 13 (h) subject to the Third Schedule to this Act, the making of a sound  
14 recording of a literary or musical work, and the reproduction of such a sound  
15 recording by the maker or under licence from him, where the copies thereof are  
16 intended for retail sale in Nigeria and the work has already been previously  
17 recorded under licence from the owner of the relevant part of the copyright,  
18 whether in Nigeria or abroad, subject to such conditions and to the payment of  
19 such compensation as may be prescribed;
- 20 (i) the reading or recitation in public or in a broadcast by any person of  
21 any reasonable extract from a published literary work if accompanied by a  
22 sufficient acknowledgment;
- 23 (j) any use made of a work by or under the direction or control of the  
24 Government, or by such public libraries, non-commercial documentation  
25 centers and scientific or other institutions as may be prescribed, where the use  
26 is in the public interest, no revenue is derived therefrom and no admission fee is  
27 charged for the communication, if any, to the public of the work so used;
- 28 (k) news of the day publicly broadcast or publicly communicated by  
29 any other means;
- 30 (l) the communication to the public of a work, in a place where no

1 admission fee is charged in respect of the communication, by any club  
2 whose aim is not profit making;

3 (m) any use made of a work for the purpose of judicial proceeding  
4 or of any report of any such proceeding;

5 (n) the making of not more than three copies of a book (including a  
6 pamphlet, sheet music, map, chart or plan) by or under the direction of the  
7 person in charge of a public library for the use of the library if such a book is  
8 not available for sale in Nigeria;

9 (o) the reproduction, by or under the direction of the person in  
10 charge of a public library for the users of the library for the purpose of  
11 research or private study of an unpublished literary or musical work kept in a  
12 library, museum or other institutions to which the public has access;

13 (p) reproduction of published work in braille for the exclusive use  
14 of the blind, and sound recordings made by institutions or other  
15 establishments approved by the Government for the promotion of the  
16 welfare of other disabled persons for the exclusive use of such blind or  
17 disabled person.

18 2.-(1) Without prejudice to any provision of this Act, it shall be  
19 permitted for an authorized entity, without the authorization of the author or  
20 owner of copyright, to make an accessible format copy of a work or subject  
21 matter, or otherwise procure an accessible format copy, and supply those  
22 copies to beneficiary persons by any means, including by non- commercial  
23 lending or by electronic communication by wire or wireless means, and  
24 undertake any intermediate steps to achieve those objectives, subject to the  
25 following conditions:

26 (a) the authorized entity wishing to undertake the said activity has  
27 lawful access to that work or subject matter, or a copy of that work or subject  
28 matter;

29 (b) the work or subject matter is converted to an accessible format  
30 copy;

1 (c) such accessible format copies are supplied exclusively to be used  
2 by beneficiary persons; and

3 (d) the activity is undertaken on a non-profit basis.

4 (2) For the purpose of the requirements of subsection (1) (c) of this  
5 section, an authorized entity shall establish and follow its own practices:

6 (a) to establish that the persons it serves are beneficiary persons;

7 (b) to limit to beneficiary persons and/or authorized entities its  
8 distribution and making available of accessible format copies;

9 (c) to discourage the reproduction, distribution and making available  
10 of unauthorized copies; and

11 (d) to maintain due care in, and records of, its handling of copies of  
12 works or other subject matter while respecting the privacy of beneficiary  
13 persons.

14 (3) A beneficiary person, or someone acting on his or her behalf  
15 including a primary caretaker or caregiver, is permitted to make an accessible  
16 format copy of a work or other subject matter for the personal use of the  
17 beneficiary person or otherwise may assist the beneficiary person to make and  
18 use accessible format copies where the beneficiary person has lawful access to  
19 that work or subject matter or a copy of that work or subject matter.

20 (4) An authorized entity is permitted, without the authorization of the  
21 author or owner of copyright,

22 (a) to distribute or make available for the exclusive use of beneficiary  
23 persons accessible format copies to an authorized entity in another country;  
24 and

25 (b) to distribute or make available accessible format copies to a  
26 beneficiary person in another country;

27 provided that prior to the distribution or making available, the said authorized  
28 entity did not know or have reasonable grounds to know that the accessible  
29 format copy would be used other than for the beneficiary persons.

30 (5) An authorized entity, a beneficiary person, or someone acting on

1 his or her behalf including a primary caretaker or caregiver, is permitted,  
2 without the authorization of the author or owner of copyright, to import an  
3 accessible format copy, including by electronic communication by wire or  
4 wireless means.

5 (6) For the purposes of this Section:

6 (a) "works" include literary and artistic works in the form of text,  
7 notation and/or related illustrations, whether published or otherwise made  
8 publicly available in any media, including such works in audio form;

9 (b) "accessible format copy" means a copy of a work in an  
10 alternative manner or form which gives a beneficiary person access to the  
11 work, including to permit the person to navigate and have access as feasibly  
12 and comfortably as a person without visual impairment or other print  
13 disability, and which respects the integrity of the original work, taking due  
14 consideration of the changes needed to make the work accessible in the  
15 alternative format and of the accessibility needs of the beneficiary persons;

16 (c) "authorized entity" means-

17 (i) an entity that is authorized or recognized by the government, or  
18 receives financial support from the government, to provide education,  
19 instructional training, adaptive reading or information access to beneficiary  
20 persons on a non-profit basis, or

21 (ii) a government institution or non-profit organization that  
22 provides the same services to beneficiary persons as one of its primary  
23 activities or institutional obligations.

24 (d) A "beneficiary person" means a person who:

25 (i) is blind;

26 (ii) has a visual impairment or a perceptual or reading disability  
27 which cannot be improved to give visual function substantially equivalent to  
28 that of a person who has no such impairment or disability and so is unable to  
29 read printed works to substantially the same degree as a person without an  
30 impairment or disability; or

1 (iii) is otherwise unable, through physical disability, to hold or  
2 manipulate a book or to focus or move the eyes to the extent that would be  
3 normally acceptable for reading;  
4 regardless of any other disabilities.

5 THIRD SCHEDULE

6 SPECIAL EXCEPTIONS IN RESPECT OF A SOUND RECORDING

7 OF A MUSICAL WORK

8 *[Section 6 (4).]*

9 1. The copyright in a musical work is not infringed by a person (in this  
10 Schedule referred to as "the record producer") who makes a recording of the  
11 work or of an adaptation thereof in Nigeria, if-

12 (a) records of the work, or as the case may be, of a similar adaptation  
13 of the work, have previously been made in, or imported into Nigeria for the  
14 purposes of retail sale, and were so made or imported by, or with the licence of,  
15 the owner of the copyright in the work;

16 (b) before making the recording, the record producer gave to the  
17 owner of the copyright the prescribed notice of his intention to make it;

18 (c) the record producer intends to sell the record by retail, or to supply  
19 it for the purpose of its being sold by retail by another person, or intends to use  
20 it for making other records which are to be sold or supplied; and

21 (d) in the case of a record which is sold by retail, the record producer  
22 pays the owner of the copyright in the prescribed manner and at the prescribed  
23 time, a royalty of an amount ascertained in accordance with the provisions of  
24 this Schedule.

25 2. Subject to the following provisions of this Schedule, the royalty  
26 mentioned in sub-paragraph (d) of paragraph 1 of this Schedule shall be of an  
27 amount equal to a percentage of the ordinary retail selling price of the record  
28 calculated in the prescribed manner.

29 3. If, at any time after the end of the period of one year beginning with  
30 the coming into operation of a prescribed rate of royalty it appears to the

1 Commission that the ordinary rate of royalty, or the minimum amount  
2 thereof, as prescribed has ceased to be equitable, either generally or in  
3 relation to any class of records, the Commission may hold a public inquiry,  
4 in the prescribed manner, and if, in consequence of such an inquiry, the  
5 Commission is satisfied of the need to do so, he may make an order  
6 prescribing such different rate or amount, either generally or in relation to  
7 any one or more classes of records, as he may consider just:

8           Provided that, where no order comprising a class of records (either  
9 a general order or an order relating specifically to that class, or to that class  
10 together with one or more other classes of records), has been made under this  
11 paragraph, no further order comprising that class of records shall be made  
12 thereunder less than five years after the date on which the previous order  
13 comprising that class (or, if more than one, the last previous order  
14 comprising that class) was made thereunder.

15           4. In the case of a record which comprises (with or without other  
16 material, and either in their original form or in the form of adaptations) two  
17 or more musical works in which copyright subsist, if the owners of the  
18 copyright in the works are different persons, the royalty shall be apportioned  
19 among them in such manner as they may agree or as, in default of agreement,  
20 may be determined by arbitration.

21           5. Where a record comprises (with or without other material) a  
22 performance or a musical work, or of an adaptation of musical work, in  
23 which works are sung, or are spoken incidentally to or in association with the  
24 music, and either no copyright subsists in that work or, if such copyright  
25 subsists, the conditions specified in paragraph 1 of this Schedule are  
26 fulfilled in relation to that copyright, then if-

27           (a) the works consist or form part of a literary or dramatic work in  
28 which copyright subsist; and

29           (b) such previous records as are referred to in sub-paragraph (a) of  
30 paragraph 1 of this Schedule were made or imported by, or with the licence

1 of the owner of the copyright in that literary or dramatic work; and

2 (c) the conditions specified in sub-paragraphs (b) and (d) of paragraph  
3 1 of this Schedule are fulfilled in relation to the owner of that copyright, the  
4 making of the record shall constitute an infringement of the copyright in the  
5 literary or dramatic work:

6 Provided that, this paragraph shall not be construed as requiring more  
7 than one royalty to be paid in respect of a record; and if copyright subsists both  
8 in the musical work and in the literary or dramatic work, and their owners are  
9 different persons, the royalty shall be apportioned among them (or among them  
10 and any other person entitled to a share thereof in accordance with the last  
11 preceding sub-paragraph) as they may agree or as, in default of agreement, may  
12 be determined by arbitration.

13 6. For the purpose of this Schedule, an adaptation of a work shall be  
14 taken to be similar to an adaptation thereof contained in previous records if the  
15 two adaptations do not substantially differ in their treatment of the work, either  
16 in respect of style or (apart from any difference in number) in respect of the  
17 performances required for performing them.

18 7. Where, for the purposes of sub-paragraph (a) of paragraph 1 of this  
19 Schedule, the record producer requires to know whether such previous records  
20 as are mentioned in that sub-paragraph were made or imported as therein  
21 mentioned, the record producers may make the prescribed inquiries; and if the  
22 owner of the copyright fails to reply to those inquiries within the prescribed  
23 period, the previous record shall be taken to have been made or imported, as the  
24 case may be, with the licence of the owner of the copyright.

25 8. The provisions of paragraph 7 of this Schedule shall apply in  
26 relation to records of part of a work or adaptation as they apply in relation to  
27 records of the whole of it:

28 Provided that paragraph 1 of this Schedule-

29 (a) shall not apply to a record of the whole of a work or adaptation  
30 unless the previous records referred to in sub-paragraph (a) of that paragraph

1 were records of the whole of the work or of a similar adaptation; and  
2 (b) shall not apply to a record of part of a work or adaptation unless  
3 those previous records were records of, or comprising, that part of the work  
4 of a similar adaptation.

5 9. Nothing in this Schedule shall be construed as authorising the  
6 importation of records which could not lawfully be imported apart from this  
7 Schedule; and accordingly, for the purposes of any provision of this Act  
8 relating to imported articles, where the question arises whether the making  
9 of a record outside Nigeria would have constituted an infringement of  
10 copyright if the record had been made in Nigeria, that question shall be  
11 determined as if paragraph 1 of this Schedule had not been enacted.

12 10. In this Schedule, "prescribed" means prescribed by regulations  
13 made under this Schedule by the Minister and any such regulations made for  
14 the purposes of sub-paragraph (d) of paragraph 1 of this Schedule may  
15 provide that the taking of such steps as the Minister considers most  
16 convenient for ensuring the receipt of the royalties (by the owner of the  
17 copyright) shall be treated as constituting payment of the royalties in  
18 accordance with that paragraph.

19 FOURTH SCHEDULE

20 COMPULSORY LICENCE FOR TRANSLATION AND REPRODUCTION OF  
21 CERTAIN WORKS

22 1. In this Schedule-

Interpretation

23 "qualified person" means-

24 (a) a citizen of Nigeria or an individual domiciled in Nigeria; or

25 (b) a body corporate incorporated under any written law in Nigeria;

26 "research" shall not include industrial research, or research carried out by  
27 bodies corporate (not being bodies corporate owned or controlled by the  
28 Government), companies, associations or bodies of persons carrying on any  
29 business;

30 "purposes of teaching, research or scholarship" includes-

Licence to produce  
and publish  
translations

1 (a) purposes of instruction activity at all levels in educational  
2 institutions; and

3 (b) purposes of all types of organised educational activity.

4 2.-(1) Any qualified person may apply to the Commission for a  
5 licence to produce and publish a translation of a literary or dramatic work  
6 which has been published in analogous forms of reproduction for the purposes  
7 of teaching, scholarship or research.

8 (2) An application under this paragraph shall be made in such form as  
9 may be prescribed and shall state the proposed retail price of a copy of the  
10 translation of the work.

11 (3) Every applicant for a licence under this paragraph shall, along  
12 with his application, deposit with the Commission such fee as may be  
13 prescribed.

14 (4) Where an application is made to the Commission under this  
15 paragraph it may, after holding such inquiry as may be prescribed, grant to the  
16 applicant a licence, not being an exclusive licence, to produce and publish a  
17 translation of the work in the language mentioned in the application subject to  
18 the condition-

19 (a) that the applicant shall pay to the owner of the copyright in the  
20 work royalties in respect of copies of the translation of the work sold to the  
21 public, calculated at such rate as the Commission may, in the circumstances of  
22 each case, determine in the prescribed manner, except that the royalties shall be  
23 consistent with the standards normally operating in the case of licences freely  
24 negotiated between persons in Nigeria and owners of translation rights in the  
25 country of the owner of the right of translation; and

26 (b) that the licence shall not extend to the export of copies of the  
27 translation of the work outside Nigeria and every copy of such translation shall  
28 contain a notice in the language of such translation that the copy is available for  
29 distribution only in Nigeria.

30 (5) Sub-paragraph (4) of this paragraph shall not apply to the export

1 by the Government or any authority under the Government of copies of such  
2 translation in a language other than English to any country if-

3 (a) such copies are sent to citizens of Nigeria residing outside  
4 Nigeria or to any association of such citizens outside Nigeria; or

5 (b) such copies are meant to be used for purposes of teaching,  
6 scholarship or research and not for any commercial purpose,  
7 and in either case, the government of the country to which the copies are  
8 exported has agreed to the receipt or distribution, or both, of the copies  
9 exported to that country.

10 (6) No licence shall be granted by the Commission under this  
11 paragraph until the expiration of whichever of the following periods is  
12 applicable-

13 (a) one year from the date of first publication of the work where the  
14 application is for a licence for translation into any language spoken in  
15 Nigeria other than English;

16 (b) three years from the date of first publication of the work where  
17 the application is for a licence for translation into English.

18 (7) No licence shall be granted by the Commission unless-

19 (a) the Commission is satisfied that no translation of the work into  
20 the language in question has been published in printed or analogous forms of  
21 reproduction, by or with the authorisation of the owner of the right of  
22 translation, or that all previous editions in that language are out of print;

23 (b) the applicant has proved to the satisfaction of the Commission  
24 that he had requested and had been denied authorisation by the owner of the  
25 copyright to produce and publish such translation, or that he was, after due  
26 diligence on his part, unable to find such owner;

27 (c) where the applicant was, after due diligence on his part, unable  
28 to find the owner of the copyright, he had sent a copy of his request for such  
29 authorisation by registered air-mail post to the publisher whose name

1 appears from the work, not less than two months before the application for the  
2 licence;

3 (d) the applicant had at the time he submitted an application under this  
4 paragraph informed any national or international information centre  
5 designated for this purpose by the government of the country in which the  
6 publisher of the work to be translated is believed to have his principal place of  
7 business;

8 (e) the Commission is satisfied that the applicant is competent to  
9 produce and publish a correct translation of the work and possesses the means  
10 to pay to the owner of the copyright the royalties payable to him under this Act;

11 (f) a period of six months in the case of an application for a licence for  
12 translation into English or nine months in the case of an application for a  
13 licence for translation into any language spoken in Nigeria other than sub-  
14 paragraph (7) (b) of this paragraph or where a copy of the request has been sent  
15 under sub-paragraph (7) (c) of the said paragraph, from the date of sending of  
16 such copy, and the translation of the work in the language mentioned in the  
17 application has not been published by the owner of the copyright in the work or  
18 any person authorised by him within the said period of six months or nine  
19 months, as the case may be;

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

22 (h) if the work is composed mainly of illustrations, the provisions of  
23 section 3 of this Act are complied with;

24 (i) the author has not withdrawn from circulation copies of the work;  
25 and

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

Licence to  
reproduce and  
publish works  
for certain  
purposes

28 **3.-(1)** Where, after the expiration of the relevant period from the date  
29 of the first publication of an edition of a literary or artistic work-

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

1 (b) such copies have not been put on sale in Nigeria for a period of  
2 six months, by the owner of the right of reproduction or by any person  
3 authorised by him in that behalf to the general public, or in connection with  
4 systematic instructional activities at a price reasonably related to that  
5 normally charged in Nigeria for comparable works, any qualified person  
6 may apply to the Commission for a licence to reproduce and publish such  
7 work in printed or analogous forms of reproduction at the price at which  
8 such edition is sold or at a lower price for the purposes of systematic  
9 instructional activities.

10 (2) Every such application shall be made in such forms as may be  
11 prescribed and shall state the proposed retail price of a copy of the work to be  
12 produced.

13 (3) Every applicant for a licence under this paragraph shall, along  
14 with his application, deposit with the Commission such fee as may be  
15 prescribed.

16 (4) Where an application is made to the Commission under this  
17 paragraph it may, after holding such inquiry as may be prescribed, grant to  
18 the applicant a licence, not being an exclusive license, to produce and  
19 publish a reproduction of the work mentioned in the application subject to  
20 the conditions that-

21 (a) the applicant shall pay to the owner of the copyright in the work  
22 royalties in respect of copies of the reproduction of the work sold to the  
23 public, calculated at such rate as the Commission may, in the circumstances  
24 of each case, determine in the prescribed manner, except that the royalties  
25 shall be consistent with the standards normally operating in the case of  
26 licences freely negotiated between persons in Nigeria and owners of  
27 reproduction rights in the country of the owner of the reproduction right;

28 (b) a licence granted under this paragraph shall not extend to the  
29 export of copies of the reproduction of the work outside Nigeria and every  
30 copy of such reproduction shall contain a notice that the copy is available for

1 distribution only in Nigeria.

2 (5) No licence shall be granted to an applicant under this paragraph  
3 unless-

4 (a) the applicant has proved to the satisfaction of the Commission that  
5 he had requested and been denied authorisation by the owner of the copyright  
6 in the work to reproduce and publish such work or that he was, after due  
7 diligence on his part, unable to find such owner;

8 (b) where the applicant was unable to find the owner of the copyright,  
9 a copy of his request for such authorisation by registered air-mail post to the  
10 publisher whose name appears on the work not less than three months before  
11 the application for the licence;

12 (c) the applicant had informed any national or international centre  
13 designated for this purpose by the government of the country in which the  
14 publisher of the work to be reproduced is believed to have his principal place of  
15 business;

16 (d) the Commission is satisfied that the applicant is competent to  
17 reproduce and publish an accurate reproduction of the work and possesses the  
18 means to pay to the owner of the copyright the royalties payable to him under  
19 this paragraph;

20 (e) the applicant undertakes to reproduce and publish the work at such  
21 price as may be fixed by the Commission, being a price reasonably related to  
22 the price normally charged in Nigeria for works of the same standard on the  
23 same or similar subjects;

24 (f) a period of six months in the case of an application for the  
25 reproduction and publication of any work of natural science, physical science,  
26 mathematics or technology, or a period of three months in the case of an  
27 application for the reproduction and publication of any other work, has lapsed  
28 from the date of making the request under sub-paragraph (5) (a) of this  
29 paragraph, or where a copy of the request has been sent under sub-paragraph  
30 (5) (b) of the said paragraph, from the date of sending of a copy, and a

1 reproduction of the work has not been published by the owner of the  
2 copyright in the work or any person authorised by him within the said period  
3 of six months, as the case may be;

4 (g) the name of the author and the title of the particular edition of  
5 the work proposed to be reproduced are printed on all the copies of the  
6 reproduction;

7 (h) the author has not withdrawn circulation copies of the work;  
8 and

9 (i) an opportunity of being heard given, wherever practicable, to  
10 the owner of the copyright in the work.

11 (6) No licence to reproduce and publish the translation of a work  
12 shall be granted under this paragraph unless such translation has been  
13 published by the owner of the right of translation in a language spoken in  
14 Nigeria.

15 (7) The provisions of this paragraph shall also apply to the  
16 reproduction and publication, or translation into a language spoken in  
17 Nigeria, of any text incorporated in audio-visual fixations prepared and  
18 published solely for the purpose of systematic instructional activities.

19 (8) For the purposes of this paragraph-  
20 "relevant period", in relation to any work, means a period of-

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

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

27 4.-(1) Any broadcasting organisation in Nigeria or any qualified  
28 person who is the holder of a licence for a television or broadcasting station  
29 may apply to the Commission for a licence to produce and publish the  
30 translation of-

Licence for  
domestic  
broadcasting  
organisation

1 (a) a work referred to in paragraph 2 of this Schedule and published in  
2 printed or analogous forms of reproduction; or

3 (b) any text incorporated in audio-visual fixations prepared and  
4 published solely for the purpose of systematic instructional activities, or  
5 broadcasting such translation for the purpose of teaching or for the  
6 dissemination of the results of specialised, technical or scientific research to  
7 the experts in any particular field.

8 FIFTH SCHEDULE

9 TRANSITIONAL AND SAVINGS PROVISIONS

10 *[Section 72(3).]*

11 1. Subject to this Schedule, this Bill applies in relation to works made  
12 before the commencement of this Bill as it applies in relation to works made  
13 after the commencement of this Bill.

14 2.-(1) Subject to this paragraph, proceedings under this Bill for  
15 infringement of copyright may be taken notwithstanding that the alleged  
16 infringement occurred before the commencement of this Bill.

17 (2) Where an act done before the commencement of this Bill was then  
18 an infringement of copyright but is not an infringement of copyright under this  
19 Bill, proceedings in respect of the act may be taken as if this Bill had not been  
20 made.

21 3.-(1) Subject to sub-paragraph (2) of this paragraph, contracts for the  
22 licensing of any act in respect of copyright which were effective immediately  
23 before the commencement of this Bill, shall continue in force as if they related  
24 to the corresponding copyright under this Bill.

25 (2) A notice given under any repealed Copyright Act in Nigeria and  
26 not withdrawn before the commencement of this Bill, shall continue in force as  
27 if it had been given under this Bill.

28 (3) Any subsidiary legislation made under the repealed Act which was  
29 in force immediately before the commencement of this Bill, shall remain in  
30 force, subject to any necessary modifications, as if it had been made under this  
Bill, and may be added to, amended, revoked or varied accordingly.

**EXPLANATORY MEMORANDUM**

The Bill seeks to repeal the Copyright Act Cap C28 2004 and re-enact the Copyright Act 2021 for a holistic review of the policy and legal framework for copyright protection in Nigeria.