



VIRGIN ISLANDS

COPYRIGHT ACT

4 and 5 Eliz. 2 Ch. 74

Revised Edition
showing the law as at 1 January 2020

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act 2014.

This edition contains a consolidation of the following laws—

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Published in 2021
On the authority and on behalf of the Government of The Virgin Islands
by
The Regional Law Revision Centre Inc.

For information contact—

Attorney General's Chambers
Government of the Virgin Islands
P.O. Box 242
Road Town
Tortola, VG1110
British Virgin Islands

Tel: (284) 468 - 2960
Email: agc@gov.vg

Printed on the authority and on behalf of the Government of The Virgin Islands
by
The Regional Law Revision Centre Inc.
P.O. Box 1626, 5 Mar Building,
The Valley, AI-2640, Anguilla
Authorised Printers for this Revised Edition

COPYRIGHT ACT

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COPYRIGHT ACT

(4 and 5 Eliz. 2 1956 CHAPTER 74)

AN ACT TO MAKE NEW PROVISION IN RESPECT OF COPYRIGHT AND RELATED MATTERS, IN SUBSTITUTION FOR THE PROVISIONS OF THE COPYRIGHT ACT, 1911, AND OTHER ENACTMENTS RELATING THERETO; TO AMEND THE REGISTERED DESIGNS ACT, 1949, WITH RESPECT TO DESIGNS RELATED TO ARTISTIC WORKS IN WHICH COPYRIGHT SUBSISTS, AND TO AMEND THE DRAMATIC AND MUSICAL PERFORMERS' PROTECTION ACT, 1925; AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

COPYRIGHT IN ORIGINAL WORKS

Commencement

[5 November 1956]

Nature of copyright under this Act

1. (1) In this Act "copyright" in relation to a work (except where the context otherwise requires) means the exclusive right, by virtue and subject to the provisions of this Act, to do, and to authorise other persons to do, certain acts in relation to that work in the United Kingdom or in any other country to which the relevant provision of this Act extends.

The said acts, in relation to a work of any description, are those acts which, in the relevant provision of this Act, are designated as the acts restricted by the copyright in a work of that description.

(2) In accordance with the preceding subsection, but subject to the following provisions of this Act, the copyright in a work is infringed by any person who, not being the owner of the copyright, and without the licence of the owner thereof, does, or authorises another person to do, any of the said acts in relation to the work in the United Kingdom or in any other country to which the relevant provision of this Act extends.

(3) In the preceding subsections references to the relevant provision of this Act, in relation to a work of any description, are references to the provision of this Act whereby it is provided that (subject to compliance with the conditions specified therein) copyright shall subsist in works of that description.

(4) The preceding provisions of this section shall apply, in relation to any subject-matter (other than a work) of a description to which any provision of Part II of this Act relates, as they apply in relation to a work.

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

- (a) in the case of an individual, means a person who is a British subject or British protected person or a citizen of the Republic of Ireland or (not being a British subject or British protected person or a citizen of the Republic of Ireland) is domiciled or resident in the United Kingdom or in another country to which that provision extends, and
- (b) in the case of a body corporate, means a body incorporated under the laws of any part of the United Kingdom or of another country to which that provision extends.

In this subsection “British protected person” has the same meaning as in the British Nationality Act, 1948.

Copyright in literary, dramatic and musical works

2. (1) Copyright shall subsist, subject to the provisions of this Act, in every original literary, dramatic or musical work which is unpublished, and of which the author was a qualified person at the time when the work was made, or, if the making of the work extended over a period, was a qualified person for a substantial part of that period.

(2) Where an original literary, dramatic or musical work has been published, then, subject to the provisions of this Act, copyright shall subsist in the work (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) if, but only if—

- (a) the first publication of the work took place in the United Kingdom, or in another country to which this section extends, or
- (b) the author of the work was a qualified person at the time when the work was first published, or
- (c) the author had died before that time, but was a qualified person immediately before his death.

(3) Subject to the last preceding subsection, copyright subsisting in a work by virtue of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the author died, and shall then expire:

Provided that if before the death of the author none of the following acts had been done, that is to say—

- (a) the publication of the work;
- (b) the performance of the work in public;
- (c) the offer for sale to the public of records of the work; and
- (d) the broadcasting of the work,

the copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year which includes the earliest occasion on which one of those acts is done.

(4) In the last preceding subsection references to the doing of any act in relation to a work include references to the doing of that act in relation to an adaptation of the work.

(5) The acts restricted by the copyright in a literary, dramatic or musical work are—

- (a) reproducing the work in any material form;
- (b) publishing the work;
- (c) performing the work in public;
- (d) broadcasting the work;
- (e) causing the work to be transmitted to subscribers to a diffusion service;
- (f) making any adaptation of the work;
- (g) doing, in relation to an adaptation of the work, any of the acts specified in relation to the work in paragraphs (a) to (e) of this subsection.

(6) In this Act “adaptation”—

- (a) in relation to a literary or dramatic work, means any of the following, that is to say—
 - (i) in the case of a non-dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a dramatic work;
 - (ii) in the case of a dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a, non-dramatic work;
 - (iii) a translation of the work;
 - (iv) a version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; and
- (b) in relation to a musical work, means an arrangement or transcription of the work,

so however that the mention of any matter in this definition shall not affect the generality of paragraph (a) of the last preceding subsection.

Copyright in artistic works

3. (1) In this Act “artistic work” means a work of any of the following descriptions, that is to say—

- (a) the following, irrespective of artistic quality, namely paintings, sculptures, drawings, engravings and photographs;
- (b) works of architecture, being either buildings or models for buildings;

(c) works of artistic craftsmanship, not falling within either of the preceding paragraphs.

(2) Copyright shall subsist, subject to the provisions of this Act, in every original artistic work which is unpublished, and of which the author was a qualified person at the time when the work was made, or, if the making of the work extended over a period, was a qualified person for a substantial part of that period.

(3) Where an original artistic work has been published, then, subject to the provisions of this Act, copyright shall subsist in the work (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) if, but only if—

- (a) the first publication of the work took place in the United Kingdom, or in another country to which this section extends, or
- (b) the author of the work was a qualified person at the time when the work was first published, or
- (c) the author had died before that time, but was a qualified person immediately before his death.

(4) Subject to the last preceding subsection, copyright subsisting in a work by virtue of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the author died, and shall then expire:

Provided that—

- (a) in the case of an engraving, if before the death of the author the engraving had not been published, the copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which it is first published;
 - (b) the copyright in a photograph shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the photograph is first published, and shall then expire.
- (5) The acts restricted by the copyright in an artistic work are—
- (a) reproducing the work in any material form;
 - (b) publishing the work;
 - (c) including the work in a television broadcast;
 - (d) causing a television programme which includes the work to be transmitted to subscribers to a diffusion service.

Ownership of copyright in literary, dramatic, musical and artistic works

4. (1) Subject to the provisions of this section, the author of a work shall be entitled to any copyright subsisting in the work by virtue of this Part of this Act.

(2) Where a literary, dramatic or artistic work is made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, and is so made for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall be entitled to the copyright in the work in so far as the copyright

relates to publication of the work in any newspaper, magazine or similar periodical, or to reproduction of the work for the purpose of its being so published; but in all other respects the author shall be entitled to any copyright subsisting in the work by virtue of this Part of this Act.

(3) Subject to the last preceding subsection, where a person commissions the taking of a photograph, or the painting or drawing of a portrait, or the making of an engraving, and pays or agrees to pay for it in money or money's worth, and the work is made in pursuance of that commission, the person who so commissioned the work shall be entitled to any copyright subsisting therein by virtue of this Part of this Act.

(4) Where, in a case not falling within either of the two last preceding subsections, a work is made in the course of the author's employment by another person under a contract of service or apprenticeship, that other person shall be entitled to any copyright subsisting in the work by virtue of this Part of this Act.

(5) Each of the three last preceding subsections shall have effect subject, in any particular case, to any agreement excluding the operation thereof in that case.

(6) The preceding provisions of this section shall all have effect subject to the provisions of Part VI of this Act.

Infringements by importation, sale and other dealings

5. (1) Without prejudice to the general provisions of section one of this Act as to infringements of copyright, the provisions of this section shall have effect in relation to copyright subsisting by virtue of this Part of this Act.

(2) The copyright in a literary, dramatic, musical or artistic work is infringed by any person who, without the licence of the owner of the copyright, imports an article (otherwise than for his private and domestic use) into the United Kingdom, or into any other country to which this section extends, if to his knowledge the making of that article constituted an infringement of that copyright, or would have constituted such an infringement if the article had been made in the place into which it is so imported.

(3) The copyright in a literary, dramatic, musical or artistic work is infringed by any person who, in the United Kingdom, or in any other country to which this section extends, and without the licence of the owner of the copyright—

(a) sells, lets for hire, or by way of trade offers or exposes for sale or hire any article, or

(b) by way of trade exhibits any article in public,

if to his knowledge the making of the article constituted an infringement of that copyright, or (in the case of an imported article) would have constituted an infringement of that copyright if the article had been made in the place into which it was imported.

(4) The last preceding subsection shall apply in relation to the distribution of any articles either—

(a) for purposes of trade, or

- (b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright in question,

as it applies in relation to the sale of an article.

(5) The copyright in a literary, dramatic or musical work is also infringed by any person who permits a place of public entertainment to be used for a performance in public of the work, where the performance constitutes an infringement of the copyright in the work:

Provided that this subsection shall not apply in a case where the person permitting the place to be so used—

- (a) was not aware, and had no reasonable grounds for suspecting, that the performance would be an infringement of the copyright, or
- (b) gave the permission gratuitously, or for a consideration which was only nominal or (if more than nominal) did not exceed a reasonable estimate of the expenses to be incurred by him in consequence of the use of the place for the performance.

(6) In this section “place of public entertainment” includes any premises which are occupied mainly for other purposes, but are from time to time made available for hire to such persons as may desire to hire them for purposes of public entertainment.

General exceptions from protection of literary, dramatic and musical works

6. (1) No fair dealing with a literary, dramatic or musical work for purposes of research or private study shall constitute an infringement of the copyright in the work.

(2) No fair dealing with a literary, dramatic or musical work shall constitute an infringement of the copyright in the work if it is for purposes of criticism or review, whether of that work or of another work, and is accompanied by a sufficient acknowledgment.

(3) No fair dealing with a literary, dramatic or musical work shall constitute an infringement of the copyright in the work if it is for the purpose of reporting current events—

- (a) in a newspaper, magazine or similar periodical, or
- (b) by means of broadcasting, or in a cinematograph film,

and, in a case falling within paragraph (a) of this subsection, is accompanied by a sufficient acknowledgment.

(4) The copyright in a literary, dramatic or musical work is not infringed by reproducing it for the purposes of a judicial proceeding, or for the purposes of a report of a judicial proceeding.

(5) The reading or recitation in public by one person of any reasonable extract from a published literary or dramatic work, if accompanied by a sufficient acknowledgment, shall not constitute an infringement of the copyright in the work:

Provided that this subsection shall not apply to anything done for the purposes of broadcasting.

(6) The copyright in a published literary or dramatic work is not infringed by the inclusion of a short passage therefrom in a collection intended for the use of schools, if—

- (a) the collection is described in its title, and in any advertisements thereof issued by or on behalf of the publisher, as being so intended, and
- (b) the work in question was not published for the use of schools, and
- (c) the collection consists mainly of material in which no copyright subsists, and
- (d) the inclusion of the passage is accompanied by a sufficient acknowledgment:

Provided that this subsection shall not apply in relation to the copyright in a work if, in addition to the passage in question, two or more other excerpts from works by the author thereof (being works in which copyright subsists at the time when the collection is published) are contained in that collection, or are contained in that collection taken together with every similar collection (if any) published by the same publisher within the period of five years immediately preceding the publication of that collection.

(7) Where by virtue of an assignment or licence a person is authorised to broadcast a literary, dramatic or musical work from a place in the United Kingdom, or in another country to which section two of this Act extends, but (apart from this subsection) would not be entitled to make reproductions of it in the form of a record or of a cinematograph film, the copyright in the work is not infringed by his making such a reproduction of the work solely for the purpose of broadcasting the work:

Provided that this subsection shall not apply if—

- (a) the reproduction is used for making any further reproduction therefrom, or for any other purpose except that of broadcasting in accordance with the assignment or licence, or
- (b) the reproduction is not destroyed before the end of the period of twenty-eight days beginning with the day on which it is first used for broadcasting the work in pursuance of the assignment or licence, or such extended period (if any) as may be agreed between the person who made the reproduction and the person who (in relation to the making of reproductions of the description in question) is the owner of the copyright.

(8) The preceding provisions of this section shall apply to the doing of any act in relation to an adaptation of a work as they apply in relation to the doing of that act in relation to the work itself.

(9) The provisions of this section shall apply where a work, or adaptation of a work, is caused to be transmitted to subscribers to a diffusion service as they apply where a work or adaptation is broadcast.

(10) In this Act “sufficient acknowledgment” means an acknowledgment identifying the work in question by its title or other description and, unless the work is anonymous or the author has previously agreed or required that no acknowledgment of his name should be made, also identifying the author.

Special exceptions as respects libraries and archives

7. (1) The copyright in an article contained in a periodical publication is not infringed by the making or supplying of a copy of the article, if the copy is made or supplied by or on behalf of the librarian of a library of a class prescribed by regulations made under this subsection by the Board of Trade, and the conditions prescribed by those regulations are complied with.

(2) In making any regulations for the purposes of the preceding subsection the Board of Trade shall make such provision as the Board may consider appropriate for securing—

- (a) that the libraries to which the regulations apply are not established or conducted for profit;
- (b) that the copies in question are supplied only to persons satisfying the librarian, or a person acting on his behalf, that they require them for purposes of research or private study and will not use them for any other purpose;
- (c) that no person is furnished under the regulations with two or more copies of the same article;
- (d) that no copy extends to more than one article contained in any one publication; and
- (e) that persons to whom copies are supplied under the regulations are required to pay for them a sum not less than the cost (including a contribution to the general expenses of the library) attributable to their production,

and may impose such other requirements (if any) as may appear to the Board to be expedient.

(3) The copyright in a published literary, dramatic or musical work, other than an article contained in a periodical publication, is not infringed by the making or supplying of a copy of part of the work, if the copy is made or supplied by or on behalf of the librarian of a library of a class prescribed by regulations made under this subsection by the Board of Trade, and the conditions prescribed by those regulations are complied with:

Provided that this subsection shall not apply if, at the time when the copy is made, the librarian knows the name and address of a person entitled to authorise the making of the copy, or could by reasonable inquiry ascertain the name and address of such a person.

(4) The provisions of subsection (2) of this section shall apply for the purposes of the last preceding subsection:

Provided that paragraph (d) of the said subsection (2) shall not apply for those purposes, but any regulations made under the last preceding subsection shall include such provision as the Board of Trade may consider appropriate for securing that no copy to which the regulations apply extends to more than a reasonable proportion of the work in question.

(5) The copyright in a published literary, dramatic or musical work is not infringed by the making or supplying of a copy of the work, or of part of it, by or on behalf of the librarian of a library of a class prescribed by regulations made under this subsection by the Board of Trade, if—

- (a) the copy is supplied to the librarian of any library of a class so prescribed;
- (b) at the time when the copy is made, the librarian by or on whose behalf it is supplied does not know the name and address of any person entitled to authorise the making of the copy, and could not by reasonable inquiry ascertain the name and address of such a person; and
- (c) any other conditions prescribed by the regulations are complied with:

Provided that the condition specified in paragraph (b) of this subsection shall not apply in the case of an article contained in a periodical publication.

(6) Where, at a time more than fifty years from the end of the calendar year in which the author of a literary, dramatic or musical work died, and more than one hundred years after the time, or the end of the period, at or during which the work was made—

- (a) copyright subsists in the work, but
- (b) the work has not been published, and
- (c) the manuscript or a copy of the work is kept in a library, museum or other institution where (subject to any provisions regulating the institution in question) it is open to public inspection,

the copyright in the work is not infringed by a person who reproduces the work for purposes of research or private study, or with a view to publication.

(7) Where a published literary, dramatic or musical work (in this subsection referred to as “the new work”) incorporates the whole or part of a work (in this subsection referred to as “the old work”) in the case of which the circumstances specified in the last preceding subsection existed immediately before the new work was published, and—

- (a) before the new work was published, such notice of the intended publication as may be prescribed by regulations made under this subsection by the Board of Trade had been given, and
- (b) immediately before the new work was published, the identity of the owner of the copyright in the old work was not known to the publisher of the new work,

then for the purposes of this Act—

- (i) that publication of the new work, and
- (ii) any subsequent publication of the new work, either in the same or in an altered form,

shall, in so far as it constitutes a publication of the old work, not be treated as an infringement of the copyright in the old work or as an unauthorised publication of the old work:

Provided that this subsection shall not apply to a subsequent publication incorporating a part of the old work which was not included in the new work as originally published, unless (apart from this subsection) the circumstances

specified in the last preceding subsection, and in paragraphs (a) and (b) of this subsection, existed immediately before that subsequent publication.

(8) In so far as the publication of a work, or of part of a work, is, by virtue of the last preceding subsection, not to be treated as an infringement of the copyright in the work, a person who subsequently broadcasts the work, or that part thereof, as the case may be, or causes it to be transmitted to subscribers to a diffusion service, or performs it in public, or makes a record of it, does not thereby infringe the copyright in the work.

(9) In relation to an article or other work which is accompanied by one or more artistic works provided for explaining or illustrating it (in this subsection referred to as “illustrations”), the preceding provisions of this section shall apply as if—

- (a) wherever they provide that the copyright in the article or work is not infringed, the reference to that copyright included a reference to any copyright in any of the illustrations;
- (b) in subsections (1) and (2), references to a copy of the article included references to a copy of the article together with a copy of the illustrations or any of them ;
- (c) in subsections (3) to (5), references to a copy of the work included references to a copy of the work together with a copy of the illustrations or any of them, and references to a copy of part of the work included references to a copy of that part of the work together with a copy of any of the illustrations which were provided for explaining or illustrating that part; and
- (d) in subsections (6) and (7), references to the doing of any act in relation to the work included references to the doing of that act in relation to the work together with any of the illustrations.

(10) In this section “article” includes an item of any description.

Special exception in respect of records of musical works

8. (1) The copyright in a musical work is not infringed by a person (in this section referred to as “the manufacturer”) who makes a record of the work or of an adaptation thereof in the United Kingdom, if—

- (a) records of the work, or, as the case may be, of a similar adaptation of the work, have previously been made in, or imported into, the United Kingdom for the purposes of retail sale, and were so made or imported by, or with the licence of, the owner of the copyright in the work;
- (b) before making the record, the manufacturer gave to the owner of the copyright the prescribed notice of his intention to make it;
- (c) the manufacturer intends to sell the record by retail, or to supply it for the purpose of its being sold by retail by another person, or intends to use it for making other records which are to be so sold or supplied; and
- (d) in the case of a record which is sold by retail, the manufacturer pays to the owner of the copyright, in the prescribed manner and

at the prescribed time, a royalty of an amount ascertained in accordance with the following provisions of this section.

(2) Subject to the following provisions of this section, the royalty mentioned in paragraph (d) of the preceding subsection shall be of an amount equal to six and one-quarter per cent. of the ordinary retail selling price of the record, calculated in the prescribed manner:

Provided that, if the amount so calculated includes a fraction of a farthing, that fraction shall be reckoned as one farthing, and if, apart from this proviso, the amount of the royalty would be less than three-farthings, the amount thereof shall be three-farthings.

(3) If, at any time after the end of the period of one year beginning with the coming into operation of this section, it appears to the Board of Trade that the ordinary rate of royalty, or the minimum amount thereof, in accordance with the provisions of the last preceding subsection, or in accordance with those provisions as last varied by an order under this subsection, has ceased to be equitable, either generally or in relation to any class of records, the Board may hold a public inquiry in the prescribed manner; and if, in consequence of such an inquiry, the Board are satisfied of the need to do so, the Board may make an order prescribing such different rate or amount, either generally or in relation to any one or more classes of records, as the Board may consider just:

Provided that—

- (a) no order shall be made under this subsection unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament; and
- (b) where an order comprising a class of records (that is to say, either a general order or an order relating specifically to that class, or to that class together with one or more other classes of records) has been made under this subsection, no further order comprising that class of records shall be made thereunder less than five years after the date on which the previous order comprising that class (or, if more than one, the last previous order comprising that class) was made thereunder.

(4) In the case of a record which comprises (with or without other material, and either in their original form or in the form of adaptations) two or more musical works in which copyright subsists—

- (a) the minimum royalty shall be three-farthings in respect of each of those works, or, if a higher or lower amount is prescribed by an order under the last preceding subsection as the minimum royalty, shall be that amount in respect of each of those works; and
- (b) if the owners of the copyright in the works are different persons, the royalty shall be apportioned among them in such manner as they may agree or as, in default of agreement, may be determined by arbitration.

(5) Where a record comprises (with or without other material) a performance of a musical work, or of an adaptation of a musical work, in which words are sung, or are spoken incidentally to or in association with the music, and either no copyright subsists in that work or, if such copyright subsists, the

conditions specified in subsection (1) of this section are fulfilled in relation to that copyright, then if—

- (a) the words consist or form part of a literary or dramatic work in which copyright subsists, and
- (b) such previous records as are referred to in paragraph (a) of subsection (1) of this section were made or imported by, or with the licence of, the owner of the copyright in that literary or dramatic work, and
- (c) the conditions specified in paragraphs (b) and (d) of subsection (1) of this section are fulfilled in relation to the owner of that copyright,

the making of the record shall not constitute an infringement of the copyright in the literary or dramatic work:

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

(6) For the purposes of this section an adaptation of a work shall be taken to be similar to an adaptation thereof contained in previous records if the two adaptations do not substantially differ in their treatment of the work, either in respect of style or (apart from any difference in numbers) in respect of the performers required for performing them.

(7) Where, for the purposes of paragraph (a) of subsection (1) of this section, the manufacturer requires to know whether such previous records as are mentioned in that paragraph were made or imported as therein mentioned, the manufacturer may make the prescribed inquiries; and if the owner of the copyright fails to reply to those inquiries within the prescribed period, the previous records shall be taken to have been made or imported, as the case may be, with the licence of the owner of the copyright.

(8) The preceding provisions of this section shall apply in relation to records of part of a work or adaptation as they apply in relation to records of the whole of it:

Provided that subsection (1) of this section—

- (a) shall not apply to a record of the whole of a work or adaptation unless the previous records referred to in paragraph (a) of that subsection were records of the whole of the work or of a similar adaptation, and
- (b) shall not apply to a record of part of a work or adaptation unless those previous records were records of, or comprising, that part of the work or of a similar adaptation.

(9) In relation to musical works published before the first day of July, nineteen hundred and twelve, the preceding provisions of this section shall apply

as if paragraph (a) of subsection (1), paragraph (b) of subsection (5), subsections (6) and (7), and the proviso to the last preceding subsection, were omitted:

Provided that this subsection shall not extend the operation of subsection (5) of this section to a record in respect of which the condition specified in paragraph (b) of that subsection is not fulfilled, unless the words comprised in the record (as well as the musical work) were published before the first day of July, nineteen hundred and twelve, and were so published as words to be sung to, or spoken incidentally to or in association with, the music.

(10) Nothing in this section shall be construed as authorising the importation of records which could not lawfully be imported apart from this section; and accordingly, for the purposes of any provision of this Act relating to imported articles, where the question arises whether the making of a record made outside the United Kingdom would have constituted an infringement of copyright if the record had been made in the United Kingdom, that question shall be determined as if subsection (1) of this section had not been enacted.

(11) In this section “prescribed” means prescribed by regulations made under this section by the Board of Trade; and any such regulations made for the purposes of paragraph (d) of subsection (1) of this section may provide that the taking of such steps as may be specified in the regulations (being such steps as the Board consider most convenient for ensuring the receipt of the royalties by the owner of the copyright) shall be treated as constituting payment of the royalties in accordance with that paragraph.

General exceptions from protection of artistic works

9. (1) No fair dealing with an artistic work for purposes of research or private study shall constitute an infringement of the copyright in the work.

(2) No fair dealing with an artistic work shall constitute an infringement of the copyright in the work if it is for purposes of criticism or review, whether of that work or of another work, and is accompanied by a sufficient acknowledgment.

(3) The copyright in a work to which this subsection applies which is permanently situated in a public place, or in premises open to the public, is not infringed by the making of a painting, drawing, engraving or photograph of the work, or the inclusion of the work in a cinematograph film or in a television broadcast.

This subsection applies to sculptures, and to such works of artistic craftsmanship as are mentioned in paragraph (c) of subsection (1) of section three of this Act.

(4) The copyright in a work of architecture is not infringed by the making of a painting, drawing, engraving or photograph of the work, or the inclusion of the work in a cinematograph film or in a television broadcast.

(5) Without prejudice to the two last preceding subsections, the copyright in an artistic work is not infringed by the inclusion of the work in a cinematograph film or in a television broadcast, if its inclusion therein is only by way of background or is otherwise only incidental to the principal matters represented in the film or broadcast.

(6) The copyright in an artistic work is not infringed by the publication of a painting, drawing, engraving, photograph or cinematograph film, if by virtue of any of the three last preceding subsections the making of that painting, drawing, engraving, photograph or film did not constitute an infringement of the copyright.

(7) The copyright in an artistic work is not infringed by reproducing it for the purposes of a judicial proceeding or for the purposes of a report of a judicial proceeding.

(8) The making of an object of any description which is in three dimensions shall not be taken to infringe the copyright in an artistic work in two dimensions, if the object would not appear, to persons who are not experts in relation to objects of that description, to be a reproduction of the artistic work.

(9) The copyright in an artistic work is not infringed by the making of a subsequent artistic work by the same author, notwithstanding that part of the earlier work—

- (a) is reproduced in the subsequent work, and
- (b) is so reproduced by the use of a mould, cast, sketch, plan, model or study made for the purposes of the earlier work,

if in making the subsequent work the author does not repeat or imitate the main design of the earlier work.

(10) Where copyright subsists in a building as a work of architecture, the copyright is not infringed by any reconstruction of that building; and where a building has been constructed in accordance with architectural drawings or plans in which copyright subsists, and has been so constructed by, or with the licence of, the owner of that copyright, any subsequent reconstruction of the building by reference to those drawings or plans shall not constitute an infringement of that copyright.

(11) The provisions of this section shall apply in relation to a television programme which is caused to be transmitted to subscribers to a diffusion service as they apply in relation to a television broadcast.

Special exception in respect of industrial designs

10. (1) Where copyright subsists in an artistic work, and a corresponding design is registered under the Registered Designs Act, 1949 (in this section referred to as “the Act of 1949”), it shall not be an infringement of the copyright in the work—

- (a) to do anything, during the subsistence of the copyright in the registered design under the Act of 1949, which is within the scope of the copyright in the design, or
- (b) to do anything, after the copyright in the registered design has come to an end, which, if it had been done while the copyright in the design subsisted, would have been within the scope of that copyright as extended to all associated designs and articles:

Provided that this subsection shall have effect subject to the provisions of the First Schedule to this Act in cases falling within that Schedule.

- (2) Where copyright subsists in an artistic work, and—

- (a) a corresponding design is applied industrially by or with the licence of the owner of the copyright in the work, and
- (b) articles to which the design has been so applied are sold, let for hire, or offered for sale or hire, and
- (c) at the time when those articles are sold, let for hire, or offered for sale or hire, they are not articles in respect of which the design has been registered under the Act of 1949,

the following provisions of this section shall apply.

(3) Subject to the next following subsection—

- (a) during the relevant period of fifteen years, it shall not be an infringement of the copyright in the work to do anything which, at the time when it is done, would have been within the scope of the copyright in the design if the design had, immediately before that time, been registered in respect of all relevant articles; and
- (b) after the end of the relevant period of fifteen years, it shall not be an infringement of the copyright in the work to do anything which, at the time when it is done, would, if the design had been registered immediately before that time, have been within the scope of the copyright in the design as extended to all associated designs and articles.

In this subsection “the relevant period of fifteen years” means the period of fifteen years beginning with the date on which articles, such as are mentioned in paragraph (b) of the last preceding subsection, were first sold, let for hire, or offered for sale or hire in the circumstances mentioned in paragraph (c) of that subsection; and “all relevant articles”, in relation to any time within that period, means all articles falling within the said paragraph (b) which had before that time been sold, let for hire, or offered for sale or hire in those circumstances.

(4) For the purposes of subsections (2) and (3) of this section, no account shall be taken of any articles in respect of which, at the time when they were sold, let for hire, or offered for sale or hire, the design in question was excluded from registration under the Act of 1949 by rules made under subsection (4) of section one of that Act (which relates to the exclusion of designs for articles which are primarily literary or artistic in character); and for the purposes of any proceedings under this Act a design shall be conclusively presumed to have been so excluded if—

- (a) before the commencement of those proceedings, an application for the registration of the design under the Act of 1949 in respect of those articles had been refused;
- (b) the reason or one of the reasons stated for the refusal was that the design was excluded from such registration by rules made under the said subsection (4); and
- (c) no appeal against that refusal had been allowed before the date of the commencement of the proceedings or was pending on that date.

(5) The power of the Board of Trade to make rules under section thirty-six of the Act of 1949 shall include power to make rules for the purposes of this

section for determining the circumstances in which a design is to be taken to be applied industrially.

(6) In this section, references to the scope of the copyright in a registered design are references to the aggregate of the things, which, by virtue of section seven of the Act of 1949, the registered proprietor of the design has the exclusive right to do, and references to the scope of the copyright in a registered design as extended to all associated designs and articles are references to the aggregate of the things which, by virtue of that section, the registered proprietor would have had the exclusive right to do if—

- (a) when that design was registered, there had at the same time been registered every possible design consisting of that design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, and the said proprietor had been registered as the proprietor of every such design, and
- (b) the design in question, and every other design such as is mentioned in the preceding paragraph, had been registered in respect of all the articles to which it was capable of being applied.

(7) In this section “corresponding design”, in relation to an artistic work, means a design which, when applied to an article, results in a reproduction of that work.

Provisions as to anonymous and pseudonymous works, and works of joint authorship

11. (1) The preceding provisions of this Part of this Act shall have effect subject to the modifications specified in the Second Schedule to this Act in the case of works published anonymously or pseudonymously.

(2) The provisions of the Third Schedule to this Act shall have effect with respect to works of joint authorship.

(3) In this Act “work of joint authorship” means a work produced by the collaboration of two or more authors in which the contribution of each author is not separate from the contribution of the other author or authors.

PART II

COPYRIGHT IN SOUND RECORDINGS, CINEMATOGRAPH FILMS, BROADCASTS, ETC.

Copyright in sound recordings

12. (1) Copyright shall subsist, subject to the provisions of this Act, in every sound recording of which the maker was a qualified person at the time when the recording was made.

(2) Without prejudice to the preceding subsection, copyright shall subsist, subject to the provisions of this Act, in every sound recording which has been published, if the first publication of the recording took place in the United Kingdom or in another country to which this section extends.

(3) Copyright subsisting in a sound recording by virtue of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the recording is first published, and shall then expire.

(4) Subject to the provisions of this Act, the maker of a sound recording shall be entitled to any copyright subsisting in the recording by virtue of this section:

Provided that where a person commissions the making of a sound recording, and pays or agrees to pay for it in money or money's worth, and the recording is made in pursuance of that commission, that person, in the absence of any agreement to the contrary, shall, subject to the provisions of Part VI of this Act, be entitled to any copyright subsisting in the recording by virtue of this section.

(5) The acts restricted by the copyright in a sound recording are the following, whether a record embodying the recording is utilised directly or indirectly in doing them, that is to say—

- (a) making a record embodying the recording;
- (b) causing the recording to be heard in public;
- (c) broadcasting the recording.

(6) The copyright in a sound recording is not infringed by a person who does any of those acts in the United Kingdom in relation to a sound recording, or part of a sound recording, if—

- (a) records embodying that recording, or that part of the recording, as the case may be, have previously been issued to the public in the United Kingdom, and
- (b) at the time when those records were so issued, neither the records nor the containers in which they were so issued bore a label or other mark indicating the year in which the recording was first published:

Provided that this subsection shall not apply if it is shown that the records in question were not issued by or with the licence of the owner of the copyright, or that the owner of the copyright had taken all reasonable steps for securing that records embodying the recording or part thereof would not be issued to the public in the United Kingdom without such a label or mark either on the records themselves or on their containers.

(7) Where a sound recording is caused to be heard in public—

- (a) at any premises where persons reside or sleep, as part of the amenities provided exclusively or mainly for residents or inmates therein, or
- (b) as part of the activities of, or for the benefit of, a club, society or other organisation which is not established or conducted for profit and whose main objects are charitable or are otherwise concerned with the advancement of religion, education or social welfare,

the act of causing it to be so heard shall not constitute an infringement of the copyright in the recording:

Provided that this subsection shall not apply—

- (i) in the case of such premises as are mentioned in paragraph (a) of this subsection, if a special charge is made for admission to the part of the premises where the recording is to be heard; or
- (ii) in the case of such an organisation as is mentioned in paragraph (b) of this subsection, if a charge is made for admission to the place where the recording is to be heard, and any of the proceeds of the charge are applied otherwise than for the purposes of the organisation.

(8) For the purposes of this Act a sound recording shall be taken to be made at the time when the first record embodying the recording is produced, and the maker of a sound recording is the person who owns that record at the time when the recording is made.

(9) In this Act “sound recording” means the aggregate of the sounds embodied in, and capable of being reproduced by means of, a record of any description, other than a sound-track associated with a cinematograph film; and “publication”, in relation to a sound recording, means the issue to the public of records embodying the recording or any part thereof.

Copyright in cinematograph films

13. (1) Copyright shall subsist, subject to the provisions of this Act, in every cinematograph film of which the maker was a qualified person for the whole or a substantial part of the period during which the film was made.

(2) Without prejudice to the preceding subsection, copyright shall subsist, subject to the provisions of this Act, in every cinematograph film which has been published, if the first publication of the film took place in the United Kingdom or in another country to which this section extends.

(3) Copyright subsisting in a cinematograph film by virtue of this section—

- (a) in the case of a film which is registrable under Part III of the Cinematograph Films Act, 1938, shall continue to subsist until the film is registered thereunder, and thereafter until the end of the period of fifty years from the end of the calendar year in which it is so registered;
- (b) in the case of a film which is not so registrable, shall continue until the film is published, and thereafter until the end of the period of fifty years from the end of the calendar year which includes the date of its first publication, or, if copyright in the film subsists by virtue only of the last preceding subsection, shall continue as from the date of first publication until the end of the period of fifty years from the end of the calendar year which includes that date,

and shall then expire:

Provided that if the Parliament of Northern Ireland passes legislation for purposes similar to those of Part III of the said Act of 1938, then, in the case of a cinematograph film which is registered under that legislation, at a time when it has not been registered under the said Part III, the copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year

which includes the date on which the film is registered under that legislation, and shall then expire.

(4) Subject to the provisions of Part VI of this Act, the maker of a cinematograph film shall be entitled to any copyright subsisting in the film by virtue of this section.

(5) The acts restricted by the copyright in a cinematograph film are—

- (a) making a copy of the film;
- (b) causing the film, in so far as it consists of visual images, to be seen in public, or, in so far as it consists of sounds, to be heard in public;
- (c) broadcasting the film;
- (d) causing the film to be transmitted to subscribers to a diffusion service.

(6) The copyright in a cinematograph film is not infringed by making a copy of it for the purposes of a judicial proceeding, or by causing it to be seen or heard in public for the purposes of such a proceeding.

(7) Where by virtue of this section copyright has subsisted in a cinematograph film, a person who, after that copyright has expired, causes the film to be seen, or to be seen and heard, in public does not thereby infringe any copyright subsisting by virtue of Part I of this Act in any literary, dramatic, musical or artistic work.

(8) In the case of any such film as is mentioned in paragraph (a) of section thirty-five of the Cinematograph Films Act, 1938 (which relates to newsreels), the copyright in the film is not infringed by causing it to be seen or heard in public after the end of the period of fifty years from the end of the calendar year in which the principal events depicted in the film occurred.

(9) For the purposes of this Act a cinematograph film shall be taken to include the sounds embodied in any sound-track associated with the film, and references to a copy of a cinematograph film shall be construed accordingly:

Provided that where those sounds are also embodied in a record, other than such a sound-track or a record derived (directly or indirectly) from such a sound-track, the copyright in the film is not infringed by any use made of that record.

(10) In this Act—

“cinematograph film” means any sequence of visual images recorded on material of any description (whether translucent or not) so as to be capable, by the use of that material—

- (a) of being shown as a moving picture, or
- (b) of being recorded on other material (whether translucent or not), by the use of which it can be so shown;

“the maker”, in relation to a cinematograph film, means the person by whom the arrangements necessary for the making of the film are undertaken;

“publication”, in relation to a cinematograph film, means the sale, letting on hire, or offer for sale or hire, of copies of the film to the public;

“copy”, in relation to a cinematograph film, means any print, negative, tape or other article on which the film or part of it is recorded,

and references in this Act to a sound-track associated with a cinematograph film are references to any record of sounds which is incorporated in any print, negative, tape or other article on which the film or part of it, in so far as it consists of visual images, is recorded, or which is issued by the maker of the film for use in conjunction with such an article.

(11) References in this section to Part III of the Cinematograph Films Act, 1938, shall be construed as including references to any enactments for the time being in force amending or substituted for the provisions of the said Part III.

Copyright in television broadcasts and sound broadcasts

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

- (a) in every television broadcast made by the British Broadcasting Corporation (in this Act referred to as “the Corporation”) or by the Independent Television Authority (in this Act referred to as “the Authority”) from a place in the United Kingdom or in any other country to which this section extends, and
- (b) in every sound broadcast made by the Corporation or the Authority from such a place.

(2) Subject to the provisions of this Act, the Corporation or the Authority, as the case may be, shall be entitled to any copyright subsisting in a television broadcast or sound broadcast made by them; and any such copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the broadcast is made, and shall then expire.

(3) In so far as a television broadcast or sound broadcast is a repetition (whether the first or any subsequent repetition) of a television broadcast or sound broadcast previously made as mentioned in subsection (1) of this section (whether by the Corporation or by the Authority), and is made by broadcasting material recorded on film, records or otherwise—

- (a) copyright shall not subsist therein by virtue of this section if it is made after the end of the period of fifty years from the end of the calendar year in which the previous broadcast was made; and
- (b) if it is made before the end of that period, any copyright subsisting therein by virtue of this section shall expire at the end of that period.

(4) The acts restricted by the copyright in a television broadcast or sound broadcast are—

- (a) in the case of a television broadcast in so far as it consists of visual images, making, otherwise than for private purposes, a cinematograph film of it or a copy of such a film;
- (b) in the case of a sound broadcast, or of a television broadcast in so far as it consists of sounds, making, otherwise than for private purposes, a sound recording of it or a record embodying such a recording;

(c) in the case of a television broadcast, causing it, in so far as it consists of visual images, to be seen in public, or, in so far as it consists of sounds, to be heard in public, if it is seen or heard by a paying audience;

(d) in the case either of a television broadcast or of a sound broadcast, re-broadcasting it.

(5) The restrictions imposed by virtue of the last preceding subsection in relation to a television broadcast or sound broadcast made by the Corporation or by the Authority shall apply whether the act in question is done by the reception of the broadcast or by making use of any record, print, negative, tape or other article on which the broadcast has been recorded.

(6) In relation to copyright in television broadcasts, in so far as they consist of visual images, the restrictions imposed by virtue of subsection (4) of this section shall apply to any sequence of images sufficient to be seen as a moving picture; and accordingly, for the purpose of establishing an infringement of such copyright, it shall not be necessary to prove that the act in question extended to more than such a sequence of images.

(7) For the purposes of subsection (4) of this section a cinematograph film or a copy thereof, or a sound recording or a record embodying a recording, shall be taken to be made otherwise than for private purposes if it is made for the purposes of the doing by any person of any of the following acts, that is to say—

(a) the sale or letting for hire of any copy of the film, or, as the case may be, of any record embodying the recording;

(b) broadcasting the film or recording;

(c) causing the film or recording to be seen or heard in public.

(8) For the purposes of paragraph (c) of subsection (4) of this section, a television broadcast shall be taken to be seen or heard by a paying audience if it is seen or heard by persons who either—

(a) have been admitted for payment to the place where the broadcast is to be seen or heard, or have been admitted for payment to a place of which that place forms part, or

(b) have been admitted to the place where the broadcast is to be seen or heard in circumstances where goods or services are supplied there at prices which exceed the prices usually charged at that place and are partly attributable to the facilities afforded for seeing or hearing the broadcast:

Provided that for the purposes of paragraph (a) of this subsection no account shall be taken—

(i) of persons admitted to the place in question as residents or inmates therein, or

(ii) of persons admitted to that place as members of a club or society, where the payment is only for membership of the club or society and the provision of facilities for seeing or hearing television broadcasts is only incidental to the main purposes of the club or society.

(9) The copyright in a television broadcast or sound broadcast is not infringed by anything done in relation to the broadcast for the purposes of a judicial proceeding.

(10) In this Act “television broadcast” means visual images broadcast by way of television, together with any sounds broadcast for reception along with those images, and “sound broadcast” means sounds broadcast otherwise than as part of a television broadcast; and for the purposes of this Act a television broadcast or sound broadcast shall be taken to be made by the body by whom, at the time when, and from the place from which, the visual images or sounds in question, or both, as the case may be, are broadcast.

Copyright in published editions of works

15. (1) Copyright shall subsist, subject to the provisions of this Act, in every published edition of any one or more literary, dramatic or musical works in the case of which either—

- (a) the first publication of the edition took place in the United Kingdom, or in another country to which this section extends, or
- (b) the publisher of the edition was a qualified person at the date of the first publication thereof:

Provided that this subsection does not apply to an edition which reproduces the typographical arrangement of a previous edition of the same work or works.

(2) Subject to the provisions of this Act, the publisher of an edition shall be entitled to any copyright subsisting in the edition by virtue of this section; and any such copyright shall continue to subsist until the end of the period of twenty-five years from the end of the calendar year in which the edition was first published, and shall then expire.

(3) The act restricted by the copyright subsisting by virtue of this section in a published edition is the making, by any photographic or similar process, of a reproduction of the typographical arrangement of the edition.

(4) The copyright under this section in a published edition is not infringed by the making by or on behalf of a librarian of a reproduction of the typographical arrangement of the edition, if he is the librarian of a library of a class prescribed by regulations made under this subsection by the Board of Trade, and the conditions prescribed by those regulations are complied with.

Supplementary provisions for purposes of Part II

16. (1) The provisions of this section shall have effect with respect to copyright subsisting by virtue of this Part of this Act in sound recordings, cinematograph films, television broadcasts and sound broadcasts, and in published editions of literary, dramatic and musical works; and in those provisions references to the relevant provision of this Part of this Act, in relation to copyright in a subject-matter of any of those descriptions, are references to the provision of this Part of this Act whereby it is provided that (subject to compliance with the conditions specified therein) copyright shall subsist in that description of subject-matter.

(2) Any copyright subsisting by virtue of this Part of this Act is infringed by any person who, without the licence of the owner of the copyright, imports an article (otherwise than for his private and domestic use) into the United Kingdom, or into any other country to which the relevant provision of this Part of this Act extends, if to his knowledge the making of that article constituted an infringement of that copyright, or would have constituted such an infringement if the article had been made in the place into which it is so imported.

(3) Any such copyright is also infringed by any person who, in the United Kingdom, or in any other country to which the relevant provision of this Part of this Act extends, and without the licence of the owner of the copyright—

(a) sells, lets for hire, or by way of trade offers or exposes for sale or hire any article, or

(b) by way of trade exhibits any article in public,

if to his knowledge the making of the article constituted an infringement of that copyright, or (in the case of an imported article) would have constituted an infringement of that copyright if the article had been made in the place into which it was imported.

(4) The last preceding subsection shall apply in relation to the distribution of any articles either—

(a) for purposes of trade, or

(b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright in question,

as it applies in relation to the sale of an article.

(5) The three last preceding subsections shall have effect without prejudice to the general provisions of section one of this Act as to infringements of copyright.

(6) Where by virtue of this Part of this Act copyright subsists in a sound recording, cinematograph film, broadcast or other subject-matter, nothing in this Part of this Act shall be construed as affecting the operation of Part I of this Act in relation to any literary, dramatic, musical or artistic work from which that subject-matter is wholly or partly derived; and copyright subsisting by virtue of this Part of this Act shall be additional to, and independent of, any copyright subsisting by virtue of Part I of this Act:

Provided that this subsection shall have effect subject to the provisions of subsection (7) of section thirteen of this Act.

(7) The subsistence of copyright under any of the preceding sections of this Part of this Act shall not affect the operation of any other of those sections under which copyright can subsist.

PART III

REMEDIES FOR INFRINGEMENTS OF COPYRIGHT

Action by owner of copyright for infringement

17. (1) Subject to the provisions of this Act, infringements of copyright shall be actionable at the suit of the owner of the copyright; and in any action for such an infringement all such relief, by way of damages, injunction, accounts or otherwise, shall be available to the plaintiff as is available in any corresponding proceedings in respect of infringements of other proprietary rights.

(2) Where in an action for infringement of copyright it is proved or admitted—

- (a) that an infringement was committed, but
- (b) that at the time of the infringement the defendant was not aware, and had no reasonable grounds for suspecting, that copyright subsisted in the work or other subject-matter to which the action relates,

the plaintiff shall not be entitled under this section to any damages against the defendant in respect of the infringement, but shall be entitled to an account of profits in respect of the infringement whether any other relief is granted under this section or not.

(3) Where in an action under this section an infringement of copyright is proved or admitted, and the court, having regard (in addition to all other material considerations) to—

- (a) the flagrancy of the infringement, and
- (b) any benefit shown to have accrued to the defendant by reason of the infringement,

is satisfied that effective relief would not otherwise be available to the plaintiff, the court, in assessing damages for the infringement, shall have power to award such additional damages by virtue of this subsection as the court may consider appropriate in the circumstances.

(4) In an action for infringement of copyright in respect of the construction of a building, no injunction or other order shall be made—

- (a) after the construction of the building has been begun, so as to prevent it from being completed, or
- (b) so as to require the building, in so far as it has been constructed, to be demolished.

(5) In this Part of this Act “action” includes a counterclaim, and references to the plaintiff and to the defendant in an action shall be construed accordingly.

(6) In the application of this Part of this Act to Scotland, “injunction” means an interdict and “interlocutory injunction” means an interim interdict, “accounts” means count, reckoning and payment, “an account of profits” means an accounting and payment of profits, “plaintiff” means pursuer, “defendant” means defender and “costs” means expenses.

Rights of owner of copyright in respect of infringing copies, etc.

18. (1) Subject to the provisions of this Act, the owner of any copyright shall be entitled to all such rights and remedies, in respect of the conversion or detention by any person of any infringing copy, or of any plate used or intended to be used for making infringing copies, as he would be entitled to if he were the owner of every such copy or plate and had been the owner thereof since the time when it was made:

Provided that if, by virtue of subsection (2) of section three of the Limitation Act, 1939 (which relates to successive conversions or detentions), or of any corresponding provision which may be enacted by the Parliament of Northern Ireland, the title of the owner of the copyright to such a copy or plate would (if he had then been the owner of the copy or plate) have been extinguished at the end of the period mentioned in that subsection or corresponding provision, he shall not be entitled to any rights or remedies under this subsection in respect of anything done in relation to that copy or plate after the end of that period.

(2) A plaintiff shall not be entitled by virtue of this section to any damages or to any other pecuniary remedy (except costs) if it is proved or admitted that, at the time of the conversion or detention in question—

- (a) the defendant was not aware, and had no reasonable grounds for suspecting, that copyright subsisted in the work or other subject-matter to which the action relates, or
- (b) where the articles converted or detained were infringing copies, the defendant believed, and had reasonable grounds for believing, that they were not infringing copies, or
- (c) where the article converted or detained was a plate used or intended to be used for making any articles, the defendant believed, and had reasonable grounds for believing, that the articles so made or intended to be made were not, or (as the case may be) would not be, infringing copies.

(3) In this Part of this Act “infringing copy”—

- (a) in relation to a literary, dramatic, musical or artistic work, or to such a published edition as is mentioned in section fifteen of this Act, means a reproduction otherwise than in the form of a cinematograph film,
- (b) in relation to a sound recording, means a record embodying that recording,
- (c) in relation to a cinematograph film, means a copy of the film, and
- (d) in relation to a television broadcast or a sound broadcast, means a copy of a cinematograph film of it or a record embodying a sound recording of it,

being (in any such case) an article the making of which constituted an infringement of the copyright in the work, edition, recording, film or broadcast, or, in the case of an imported article, would have constituted an infringement of that copyright if the article had been made in the place into which it was

imported; and “plate” includes any stereotype, stone, block, mould, matrix, transfer, negative or other appliance.

(4) In the application of this section to Scotland, for any reference to the conversion or detention by any person of an infringing copy there shall be substituted a reference to an intromission by any person with an infringing copy, and for any reference to articles converted or detained there shall be substituted a reference to articles intromitted with.

Proceedings in case of copyright subject to exclusive licence

19. (1) The provisions of this section shall have effect as to proceedings in the case of any copyright in respect of which an exclusive licence has been granted and is in force at the time of the events to which the proceedings relate.

(2) Subject to the following provisions of this section—

- (a) the exclusive licensee shall (except against the owner of the copyright) have the same rights of action, and be entitled to the same remedies, under section seventeen of this Act as if the licence had been an assignment, and those rights and remedies shall be concurrent with the rights and remedies of the owner of the copyright under that section;
- (b) the exclusive licensee shall (except against the owner of the copyright) have the same rights of action, and be entitled to the same remedies, by virtue of the last preceding section as if the licence had been an assignment; and
- (c) the owner of the copyright shall not have any rights of action, or be entitled to any remedies, by virtue of the last preceding section which he would not have had or been entitled to if the licence had been an assignment.

(3) Where an action is brought either by the owner of the copyright or by the exclusive licensee, and the action, in so far as it is brought under section seventeen of this Act, relates (wholly or partly) to an infringement in respect of which they have concurrent rights of action under that section, the owner or licensee, as the case may be, shall not be entitled, except with the leave of the court, to proceed with the action, in so far as it is brought under that section and relates to that infringement, unless the other party is either joined as a plaintiff in the action or added as a defendant:

Provided that this subsection shall not affect the granting of an interlocutory injunction on the application of either of them.

(4) In any action brought by the exclusive licensee by virtue of this section, any defence which would have been available to a defendant in the action, if this section had not been enacted and the action had been brought by the owner of the copyright, shall be available to that defendant as against the exclusive licensee.

(5) Where an action is brought in the circumstances mentioned in subsection (3) of this section, and the owner of the copyright and the exclusive licensee are not both plaintiffs in the action, the court, in assessing damages in respect of any such infringement as is mentioned in that subsection—

- (a) if the plaintiff is the exclusive licensee, shall take into account any liabilities (in respect of royalties or otherwise) to which the licence is subject, and
- (b) whether the plaintiff is the owner of the copyright or the exclusive licensee, shall take into account any pecuniary remedy already awarded to the other party under section seventeen of this Act in respect of that infringement, or, as the case may require, any right of action exercisable by the other party under that section in respect thereof.

(6) Where an action, in so far as it is brought under section seventeen of this Act, relates (wholly or partly) to an infringement in respect of which the owner of the copyright and the exclusive licensee have concurrent rights of action under that section, and in that action (whether they are both parties to it or not) an account of profits is directed to be taken in respect of that infringement, then, subject to any agreement of which the court is aware, whereby the application of those profits is determined as between the owner of the copyright and the exclusive licensee, the court shall apportion the profits between them as the court may consider just, and shall give such directions as the court may consider appropriate for giving effect to that apportionment.

(7) In an action brought either by the owner of the copyright or by the exclusive licensee—

- (a) no judgment or order for the payment of damages in respect of an infringement of copyright shall be given or made under section seventeen of this Act, if a final judgment or order has been given or made awarding an account of profits to the other party under that section in respect of the same infringement; and
- (b) no judgment or order for an account of profits in respect of an infringement of copyright shall be given or made under that section, if a final judgment or order has been given or made awarding either damages or an account of profits to the other party under that section in respect of the same infringement.

(8) Where, in an action brought in the circumstances mentioned in subsection (3) of this section, whether by the owner of the copyright or by the exclusive licensee, the other party is not joined as a plaintiff (either at the commencement of the action or subsequently), but is added as a defendant, he shall not be liable for any costs in the action unless he enters an appearance and takes part in the proceedings.

(9) In this section “exclusive licence” means a licence in writing, signed by or on behalf of an owner or prospective owner of copyright, authorising the licensee, to the exclusion of all other persons, including the grantor of the licence, to exercise a right which by virtue of this Act would (apart from the licence) be exercisable exclusively by the owner of the copyright, and “exclusive licensee” shall be construed accordingly; “the other party”, in relation to the owner of the copyright, means the exclusive licensee, and, in relation to the exclusive licensee, means the owner of the copyright; and “if the licence had been an assignment” means if, instead of the licence, there had been granted (subject to terms and conditions corresponding as nearly as may be with those subject to which the licence was granted) an assignment of the copyright in

respect of its application to the doing, at the places and times authorised by the licence, of the acts so authorised.

Proof of facts in copyright actions

20. (1) In any action brought by virtue of this Part of this Act—

- (a) copyright shall be presumed to subsist in the work or other subject-matter to which the action relates, if the defendant does not put in issue the question whether copyright subsists therein, and
- (b) where the subsistence of the copyright is proved or admitted, or is presumed in pursuance of the preceding paragraph, the plaintiff shall be presumed to be the owner of the copyright, if he claims to be the owner of the copyright and the defendant does not put in issue the question of his ownership thereof.

(2) Subject to the preceding subsection, where, in the case of a literary, dramatic, musical or artistic work, a name purporting to be that of the author appeared on copies of the work as published, or, in the case of an artistic work, appeared on the work when it was made, the person whose name so appeared (if it was his true name or a name by which he was commonly known) shall, in any action brought by virtue of this Part of this Act, be presumed, unless the contrary is proved—

- (a) to be the author of the work, and
- (b) to have made the work in circumstances not falling within subsection (2), subsection (3) or subsection (4) of section four of this Act.

(3) In the case of a work alleged to be a work of joint authorship, the last preceding subsection shall apply in relation to each person alleged to be one of the authors of the work, as if references in that subsection to the author were references to one of the authors.

(4) Where, in an action brought by virtue of this Part of this Act with respect to a literary, dramatic, musical or artistic work, subsection (2) of this section does not apply, but it is established—

- (a) that the work was first published in the United Kingdom, or in another country to which section two, or, as the case may be, section three, of this Act extends, and was so published within the period of fifty years ending with the beginning of the calendar year in which the action was brought, and
- (b) that a name purporting to be that of the publisher appeared on copies of the work as first published,

then, unless the contrary is shown, copyright shall be presumed to subsist in the work and the person whose name so appeared shall be presumed to have been the owner of that copyright at the time of the publication.

For the purposes of this subsection a fact shall be taken to be established if it is proved or admitted, or if it is presumed in pursuance of the following provisions of this section.

(5) Where in an action brought by virtue of this Part of this Act with respect to a literary, dramatic, musical or artistic work it is proved or admitted that the author of the work is dead—

- (a) the work shall be presumed to be an original work unless the contrary is proved, and
- (b) if it is alleged by the plaintiff that a publication specified in the allegation was the first publication of the work, and that it took place in a country and on a date so specified, that publication shall be presumed, unless the contrary is proved, to have been the first publication of the work, and to have taken place in that country and on that date.

(6) Paragraphs (a) and (b) of the last preceding subsection shall apply where a work has been published, and—

- (a) the publication was anonymous, or was under a name alleged by the plaintiff to have been a pseudonym, and
- (b) it is not shown that the work has ever been published under the true name of the author, or under a name by which he was commonly known, or that it is possible for a person without previous knowledge of the facts to ascertain the identity of the author by reasonable inquiry,

as those paragraphs apply in a case where it is proved that the author is dead.

(7) In any action brought by virtue of this Part of this Act with respect to copyright in a sound recording, if records embodying that recording or part thereof have been issued to the public, and at the time when those records were so issued they bore a label or other mark comprising any one or more of the following statements, that is to say—

- (a) that a person named on the label or mark was the maker of the sound recording;
- (b) that the recording was first published in a year specified on the label or mark;
- (c) that the recording was first published in a country specified on the label or mark,

that label or mark shall be sufficient evidence of the facts so stated except in so far as the contrary is proved.

Penalties and summary proceedings in respect of dealings which infringe copyright

21. (1) Any person who, at a time when copyright subsists in a work—

- (a) makes for sale or hire, or
- (b) sells or lets for hire, or by way of trade offers or exposes for sale or hire, or
- (c) by way of trade exhibits in public, or
- (d) imports into the United Kingdom, otherwise than for his private and domestic use,

any article which he knows to be an infringing copy of the work, shall be guilty of an offence under this subsection.

(2) Any person who, at a time when copyright subsists in a work, distributes, either—

- (a) for purposes of trade, or
- (b) for other purposes, but to such an extent as to affect prejudicially the owner of the copyright,

articles which he knows to be infringing copies of the work, shall be guilty of an offence under this subsection.

(3) Any person who, at a time when copyright subsists in a work, makes or has in his possession a plate, knowing that it is to be used for making infringing copies of the work, shall be guilty of an offence under this subsection.

(4) The preceding subsections shall apply in relation to copyright subsisting in any subject-matter by virtue of Part II of this Act, as they apply in relation to copyright subsisting by virtue of Part I of this Act.

(5) Any person who causes a literary, dramatic or musical work to be performed in public, knowing that copyright subsists in the work and that the performance constitutes an infringement of the copyright, shall be guilty of an offence under this subsection.

(6) The preceding provisions of this section apply only in respect of acts done in the United Kingdom.

(7) A person guilty of an offence under subsection (1) or subsection (2) of this section shall on summary conviction—

- (a) if it is his first conviction of an offence under this section, be liable to a fine not exceeding forty shillings for each article to which the offence relates;
- (b) in any other case, be liable to such a fine, or to imprisonment for a term not exceeding two months:

Provided that a fine imposed by virtue of this subsection shall not exceed fifty pounds in respect of articles comprised in the same transaction.

(8) A person guilty of an offence under subsection (3) or subsection (5) of this section shall on summary conviction—

- (a) if it is his first conviction of an offence under this section, be liable to a fine not exceeding fifty pounds;
- (b) in any other case, be liable to such a fine, or to imprisonment for a term not exceeding two months.

(9) The court before which a person is charged with an offence under this section may, whether he is convicted of the offence or not, order that any article in his possession which appears to the court to be an infringing copy, or to be a plate used or intended to be used for making infringing copies, shall be destroyed or delivered up to the owner of the copyright in question or otherwise dealt with as the court may think fit.

(10) An appeal shall lie to a court of quarter sessions from any order made under the last preceding subsection by a court of summary jurisdiction; and

where such an order is made by the sheriff there shall be a like right of appeal against the order as if it were a conviction.

Provision for restricting importation of printed copies

22. (1) The owner of the copyright in any published literary, dramatic or musical work may give notice in writing to the Commissioners of Customs and Excise (in this section referred to as “the Commissioners”)—

- (a) that he is the owner of the copyright in the work, and
- (b) that he requests the Commissioners, during a period specified in the notice, to treat as prohibited goods copies of the work to which this section applies:

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

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

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

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

(4) The Commissioners may make regulations prescribing the form in which notices are to be given under this section, and requiring a person giving such a notice, either at the time of giving the notice or at the time when the goods in question are imported, or at both those times, to furnish the Commissioners with such evidence, and to comply with such other conditions (if any), as may be specified in the regulations; and any such regulations may include such incidental and supplementary provisions as the Commissioners consider expedient for the purposes of this section.

(5) Without prejudice to the generality of the last preceding subsection, regulations made under that subsection may include provision for requiring a person who has given a notice under subsection (1) of this section, or a notice purporting to be a notice under that subsection—

- (a) to pay such fees in respect of the notice as may be prescribed by the regulations;
- (b) to give to the Commissioners such security as may be so prescribed, in respect of any liability or expense which they may incur in consequence of the detention, at any time within the period specified in the notice, of any copy of the work to which the notice relates, or in consequence of anything done in relation to a copy so detained;

(c) whether any such security is given or not, to keep the Commissioners indemnified against any such liability or expense as is mentioned in the last preceding paragraph.

(6) For the purposes of section eleven of the Customs and Excise Act, 1952 (which relates to the disposal of duties), any fees paid in pursuance of regulations made under this section shall be treated as money collected on account of customs.

(7) Notwithstanding anything in the Customs and Excise Act, 1952, a person shall not be liable to any penalty under that Act (other than forfeiture of the goods) by reason that any goods are treated as prohibited goods by virtue of this section.

PART IV

PERFORMING RIGHT TRIBUNAL

Establishment of tribunal

23. (1) There shall be established a tribunal, to be called the Performing Right Tribunal (in this Act referred to as “the tribunal”), for the purpose of exercising the jurisdiction conferred by the provisions of this Part of this Act.

(2) The tribunal shall consist of a chairman appointed by the Lord Chancellor, who shall be a barrister, advocate or solicitor of not less than seven years’ standing or a person who has held judicial office, and of not less than two nor more than four other members appointed by the Board of Trade.

(3) A person shall be disqualified for being appointed, or being, a member of the tribunal so long as he is a member of the Commons House of Parliament, or of the Senate or House of Commons of Northern Ireland.

(4) The provisions of the Fourth Schedule to this Act shall have effect with respect to the tribunal.

(5) There shall be paid to the members of the tribunal such remuneration (whether by way of salaries or fees), and such allowances, as the Board of Trade, with the approval of the Treasury, may determine in the case of those members respectively.

(6) The Board of Trade may appoint such officers and servants of the tribunal as the Board, with the approval of the Treasury as to numbers and remuneration, may determine.

(7) The remuneration and allowances of members of the tribunal, the remuneration of any officers and servants appointed under the last preceding subsection, and such other expenses of the tribunal as the Board of Trade with the approval of the Treasury may determine; shall be paid out of moneys provided by Parliament.

General provisions as to jurisdiction of tribunal

24. (1) Subject to the provisions of this Part of this Act, the function of the tribunal shall be to determine disputes arising between licensing bodies and

persons requiring licences, or organisations claiming to be representative of such persons, either—

- (a) on the reference of a licence scheme to the tribunal, or
- (b) on the application of a person requiring a licence either in accordance with a licence scheme or in a case not covered by a licence scheme.

(2) In this Part of this Act “licence” means a licence granted by or on behalf of the owner, or prospective owner, of the copyright in a literary, dramatic or musical work, or in a sound recording or a television broadcast, being—

- (a) in the case of a literary, dramatic or musical work, a licence to perform in public, or to broadcast, the work or an adaptation thereof, or to cause the work or an adaptation thereof to be transmitted to subscribers to a diffusion service;
- (b) in the case of a sound recording, a licence to cause it to be heard in public, or to broadcast it;
- (c) in the case of a television broadcast, a licence to cause it, in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds, to be heard in public.

(3) In this Part of this Act “licensing body”—

- (a) in relation to such licences as are mentioned in paragraph (a) of the last preceding subsection, means a society or other organisation which has as its main object, or one of its main objects, the negotiation or granting of such licences, either as owner or prospective owner of copyright or as agent for the owners or prospective owners thereof;
- (b) in relation to such licences as are mentioned in paragraph (b) of the last preceding subsection, means any owner or prospective owner of copyright in sound recordings, or any person or body of persons acting as agent for any owners or prospective owners of copyright in sound recordings in relation to the negotiation or granting of such licences; and
- (c) in relation to such licences as are mentioned in paragraph (c) of the last preceding subsection, means the Corporation or the Authority or any organisation appointed by them, or either of them, in accordance with the provisions of the Fifth Schedule to this Act:

Provided that paragraph (a) of this subsection shall not apply to an organisation by reason that its objects include the negotiation or granting of individual licences, each relating to a single work or the works of a single author, if they do not include the negotiation or granting of general licences, each extending to the works of several authors.

(4) In this Part of this Act “licence scheme”, in relation to licences of any description, means a scheme made by one or more licensing bodies, setting out the classes of cases in which they, or the persons on whose behalf they act, are willing to grant licences of that description, and the charges (if any), and terms and conditions, subject to which licences would be granted in those classes of

cases; and in this subsection “scheme” includes anything in the nature of a scheme, whether described therein as a scheme or as a tariff or by any other name.

(5) References in this Part of this Act to terms and conditions are references to any terms and conditions other than those relating to the amount of a charge for a licence; and references to giving an opportunity to a person of presenting his case are references to giving him an opportunity, at his option, of submitting representations in writing, or of being heard, or of submitting representations in writing and being heard.

Reference of licence schemes to tribunal

25. (1) Where, at any time while a licence scheme is in operation, a dispute arises with respect to the scheme between the licensing body operating the scheme and—

- (a) an organisation claiming to be representative of persons requiring licences in cases of a class to which the scheme applies, or
- (b) any person claiming that he requires a licence in a case of a class to which the scheme applies,

the organisation or person in question may refer the scheme to the tribunal in so far as it relates to cases of that class.

(2) The parties to a reference under this section shall be—

- (a) the organisation or person at whose instance the reference is made;
- (b) the licensing body operating the scheme to which the reference relates; and
- (c) such other organisations or persons (if any) as apply to the tribunal to be made parties to the reference and, in accordance with the next following subsection, are made parties thereto.

(3) Where an organisation (whether claiming to be representative of persons requiring licences or not) or a person (whether requiring a licence or not) applies to the tribunal to be made a party to a reference, and the tribunal is satisfied that the organisation or person has a substantial interest in the matter in dispute, the tribunal may, if it thinks fit, make that organisation or person a party to the reference.

(4) The tribunal shall not entertain a reference under this section by an organisation unless the tribunal is satisfied that the organisation is reasonably representative of the class of persons which it claims to represent.

(5) Subject to the last preceding subsection, the tribunal, on any reference under this section, shall consider the matter in dispute, and, after giving to the parties to the reference an opportunity of presenting their cases respectively, shall make such order, either confirming or varying the scheme, in so far as it relates to cases of the class to which the reference relates, as the tribunal may determine to be reasonable in the circumstances.

(6) An order of the tribunal under this section may, notwithstanding anything contained in the licence scheme to which it relates, be made so as to be in force either indefinitely or for such period as the tribunal may determine.

(7) Where a licence scheme has been referred to the tribunal under this section, then, notwithstanding anything contained in the scheme—

- (a) the scheme shall remain in operation until the tribunal has made an order in pursuance of the reference, and
- (b) after such an order has been made, the scheme shall remain in operation, in so far as it relates to the class of cases in respect of which the order was made, so long as the order remains in force:

Provided that this subsection shall not apply in relation to a reference as respects any period after the reference has been withdrawn, or has been discharged by virtue of subsection (4) of this section.

Further reference of scheme to tribunal

26. (1) Where the tribunal has made an order under the last preceding section with respect to a licence scheme, then, subject to the next following subsection, at any time while the order remains in force—

- (a) the licensing body operating the scheme, or
- (b) any organisation claiming to be representative of persons requiring licences in cases of the class to which the order applies, or
- (c) any person claiming that he requires a licence in a case of that class,

may refer the scheme again to the tribunal, in so far as it relates to cases of that class.

(2) A licence scheme shall not, except with the special leave of the tribunal, be referred again to the tribunal under the preceding subsection at a time earlier than—

- (a) the end of the period of twelve months beginning with the date on which the order in question was made, in the case of an order made so as to be in force indefinitely or for a period exceeding fifteen months, or
- (b) the beginning of the period of three months ending with the date of expiry of the order, in the case of an order made so as to be in force for fifteen months or less.

(3) The parties to a reference under this section shall be—

- (a) the licensing body, organisation or person at whose instance the reference is made;
- (b) the licensing body operating the scheme to which the reference relates, if the reference is not made at their instance; and
- (c) such other organisations or persons (if any) as apply to the tribunal to be made parties to the reference and, in accordance with the provisions applicable in that behalf by virtue of subsection (5) of this section, are made parties thereto.

(4) Subject to the next following subsection, the tribunal, on any reference under this section, shall consider the matter in dispute, and, after

giving to the parties to the reference an opportunity of presenting their cases respectively, shall make such order in relation to the scheme as previously confirmed or varied, in so far as it relates to cases of the class in question, either by way of confirming, varying or further varying the scheme, as the tribunal may determine to be reasonable in the circumstances.

(5) Subsections (3), (4), (6) and (7) of the last preceding section shall apply for the purposes of this section.

(6) The preceding provisions of this section shall have effect in relation to orders made under this section as they have effect in relation to orders made under the last preceding section.

(7) Nothing in this section shall be construed as preventing a licence scheme, in respect of which an order has been made under the last preceding section, from being again referred to the tribunal under that section, either—

- (a) at any time, in so far as the scheme relates to cases of a class to which the order does not apply, or
- (b) after the expiration of the order, in so far as the scheme relates to cases of the class to which the order applied while it was in force.

Applications to tribunal

27. (1) For the purposes of this Part of this Act a case shall be taken to be covered by a licence scheme if, in accordance with a licence scheme for the time being in operation, licences would be granted in cases of the class to which that case belongs:

Provided that where, in accordance with the provisions of a licence scheme—

- (a) the licences which would be so granted would be subject to terms and conditions whereby particular matters would be excepted from the licences, and
- (b) the case in question relates to one or more matters falling within such an exception,

that case shall be taken not to be covered by the scheme.

(2) Any person who claims, in a case covered by a licence scheme, that the licensing body operating the scheme have refused or failed to grant him a licence in accordance with the provisions of the scheme, or to procure the grant to him of such a licence, may apply to the tribunal under this section.

(3) Any person who claims that he requires a licence in a case not covered by a licence scheme, and either—

- (a) that a licensing body have refused or failed to grant the licence, or to procure the grant thereof, and that in the circumstances it is unreasonable that the licence should not be granted, or
- (b) that any charges, terms or conditions subject to which a licensing body propose that the licence should be granted are unreasonable,

may apply to the tribunal under this section.

(4) Where an organisation (whether claiming to be representative of persons requiring licences or not) or a person (whether requiring a licence or not) applies to the tribunal to be made a party to an application under the preceding provisions of this section, and the tribunal is satisfied that the organisation or person has a substantial interest in the matter in dispute, the tribunal may, if it thinks fit, make that organisation or person a party to the application.

(5) On any application under subsection (2) or subsection (3) of this section the tribunal shall give to the applicant and to the licensing body in question and to every other party (if any) to the application an opportunity of presenting their cases respectively; and if the tribunal is satisfied that the claim of the applicant is well-founded, the tribunal shall make an order declaring that, in respect of the matters specified in the order, the applicant is entitled to a licence on such terms and conditions, and subject to the payment of such charges (if any) as—

- (a) in the case of an application under subsection (2) of this section, the tribunal may determine to be applicable in accordance with the licence scheme, or
- (b) in the case of an application under subsection (3) of this section, the tribunal may determine to be reasonable in the circumstances.

(6) Any reference in this section to a failure to grant or procure the grant of a licence shall be construed as a reference to a failure to grant it, or to procure the grant thereof, within a reasonable time after being requested to do so.

Exercise of jurisdiction of tribunal in relation to diffusion of foreign broadcasts

28. (1) Where, on a reference to the tribunal under this Part of this Act relating to licences to cause works to be transmitted to subscribers to a diffusion service in the United Kingdom, the tribunal is satisfied—

- (a) that the licences are required wholly or partly for the purpose of distributing programmes broadcast, from a place outside the United Kingdom, by an organisation other than the Corporation and the Authority, and
- (b) that, under the arrangements in accordance with which the programmes are broadcast by that organisation, charges are payable by or on behalf of the organisation to another body, as being the body entitled under the relevant copyright law to authorise the broadcasting of those works from that place,

the tribunal shall, subject to the next following subsection, exercise its powers under this Part of this Act as the tribunal may consider appropriate for securing that the persons requiring the licences are exempted from the payment of any charges for them in so far as the licences are required for the purpose of distributing those programmes.

(2) If on such a reference as is mentioned in the last preceding subsection the tribunal is satisfied as to the matters mentioned in paragraphs (a) and (b) of that subsection, but it is shown to the satisfaction of the tribunal that the charges payable by or on behalf of the organisation, as mentioned in paragraph (b) of that subsection—

- (a) make no allowance for the fact that, in consequence of the broadcasting of the works in question by that organisation, the persons requiring the licences may be enabled to cause those works to be transmitted to subscribers to diffusion services in the United Kingdom; or
- (b) do not adequately reflect the extent to which it is likely that those persons will cause those works to be so transmitted in consequence of their being so broadcast,

the last preceding subsection shall not apply, but the tribunal shall exercise its powers under this Part of this Act so as to secure that the charges payable for the licences, in so far as the licences are required for the purpose mentioned in the last preceding subsection, are on a scale not exceeding that appearing to the tribunal to be requisite for making good the deficiency (as mentioned in paragraph (a) or paragraph (b) of this subsection, as the case may be) in the charges payable by or on behalf of the organisation broadcasting the works.

(3) The preceding provisions of this section shall have effect, with the necessary modifications, in relation to applications under this Part of this Act as they have effect in relation to references thereunder.

(4) In this section “the relevant copyright law”, in relation to works broadcast from a place outside the United Kingdom, means so much of the laws of the country in which that place is situated as confers rights similar to copyright under this Act or as otherwise relates to such rights; and any reference to works includes a reference to adaptations thereof.

Effect of orders of tribunal, and supplementary provisions relating thereto

29. (1) Where an order made on a reference under this Part of this Act with respect to a licence scheme is for the time being in force, any person who, in a case covered by the scheme as confirmed or varied by the order, does anything which—

- (a) apart from this subsection would be an infringement of copyright, but
- (b) would not be such an infringement if he were the holder of a licence granted in accordance with the scheme, as confirmed or varied by the order, in so far as the scheme relates to cases comprised in the order,

shall, if he has complied with the requirements specified in the next following subsection, be in the like position, in any proceedings for infringement of that copyright, as if he had at the material time been the holder of such a licence.

(2) The said requirements are—

- (a) that, at all material times, the said person has complied with the terms and conditions which, in accordance with the licence scheme as confirmed or varied by the order, would be applicable to a licence covering the case in question, and
- (b) if, in accordance with the scheme as so confirmed or varied, any charges are payable in respect of such a licence, that at the material time he had paid those charges to the licensing body

operating the scheme, or, if at that time the amount payable could not be ascertained, he had given an undertaking to the licensing body to pay the charges when ascertained.

(3) Where the tribunal has made an order under section twenty-seven of this Act declaring that a person is entitled to a licence in respect of any matters specified in the order, then if—

- (a) that person has complied with the terms and conditions specified in the order, and
- (b) in a case where the order requires the payment of charges, he has paid those charges to the licensing body in accordance with the order, or, if the order so provides, has given to the licensing body an undertaking to pay the charges when ascertained,

he shall be in the like position, in any proceedings for infringement of copyright relating to any of those matters, as if he had at all material times been the holder of a licence granted by the owner of the copyright in question on the terms and conditions specified in the order.

(4) In the exercise of its jurisdiction in respect of licences relating to television broadcasts, the tribunal shall have regard (among other matters) to any conditions imposed by the promoters of any entertainment or other event which is to be comprised in the broadcasts; and, in particular, the tribunal shall not hold a refusal or failure to grant a licence to be unreasonable if it could not have been granted consistently with those conditions:

Provided that nothing in this subsection shall require the tribunal to have regard to any such conditions in so far as they purport to regulate the charges to be imposed in respect of the grant of licences, or in so far as they relate to payments to be made to the promoters of any event in consideration of the grant of facilities for broadcasting.

(5) Where, on a reference to the tribunal under this Part of this Act—

- (a) the reference relates to licences in respect of copyright in sound recordings or in television broadcasts, and
- (b) the tribunal is satisfied that any of the licences in question are required for the purposes of organisations such as are mentioned in paragraph (b) of subsection (7) of section twelve of this Act,

the tribunal may, if it thinks fit, exercise its powers under this Part of this Act so as to reduce, in the case of those organisations, to such extent as the tribunal thinks fit, the charges which it determines generally to be reasonable in relation to cases of the class to which the reference relates, or, if it thinks fit, so as to exempt those organisations from the payment of any such charges.

(6) The last preceding subsection shall have effect, with the necessary modifications, in relation to applications under this Part of this Act as it has effect in relation to references thereunder.

(7) In relation to copyright in a literary, dramatic or musical work, any reference in this section to proceedings for infringement of copyright includes a reference to proceedings brought by virtue of subsection (5) of section twenty-one of this Act.

Reference of questions of law to the court

30. (1) Any question of law arising in the course of proceedings before the tribunal may, at the request of any party to the proceedings, be referred by the tribunal to the court for decision, whether before or after the tribunal has given its decision in the proceedings:

Provided that a question shall not be referred to the court by virtue of this subsection in pursuance of a request made after the date on which the tribunal gave its decision, unless the request is made before the end of such period as may be prescribed by rules made under the Fourth Schedule to this Act.

(2) If the tribunal, after giving its decision in any proceedings, refuses any such request to refer a question to the court, the party by whom the request was made may, within such period as may be prescribed by rules of court, apply to the court for an order directing the tribunal to refer the question to the court.

(3) On any reference to the court under this section with respect to any proceedings before the tribunal, and on any application under the last preceding subsection with respect to any such proceedings, every party to the proceedings before the tribunal shall be entitled to appear and to be heard.

(4) Where, after the tribunal has given its decision in any proceedings, the tribunal refers to the court under this section a question of law which arose in the course of the proceedings, and the court decides that the question was erroneously determined by the tribunal—

- (a) the tribunal, if it considers it requisite to do so for the purpose of giving effect to the decision of the court, shall give to the parties to the proceedings a further opportunity of presenting their cases respectively;
- (b) in any event, the tribunal shall reconsider the matter in dispute in conformity with the decision of the court;
- (c) if on such reconsideration it appears to the tribunal to be appropriate to do so, the tribunal shall make such order revoking or modifying any order previously made by it in the proceedings, or, in the case of proceedings under section twenty-seven of this Act where the tribunal refused to make an order, shall make such order under that section, as on such reconsideration the tribunal determines to be appropriate.

(5) Any reference of a question by the tribunal to the court under this section shall be by way of stating a case for the opinion of the court; and the decision of the court on any such reference shall be final.

(6) In this section “the court”—

- (a) in relation to any proceedings of the tribunal in England or Wales, or in Northern Ireland, means the High Court; and
- (b) in relation to any proceedings of the tribunal in Scotland, means the Court of Session.

PART V

EXTENSION OR RESTRICTION OF OPERATION OF ACT

Extension of Act to Isle of Man, Channel Islands, colonies and dependencies

31. (1) Her Majesty may by Order in Council direct that any of the provisions of this Act specified in the Order (including any enactments for the time being in force amending or substituted for those provisions) shall extend, subject to such exceptions and modifications (if any) as may be specified in the Order, to—

- (a) the Isle of Man;
- (b) any of the Channel Islands ;
- (c) any colony;
- (d) any country outside Her Majesty's dominions in which for the time being Her Majesty has jurisdiction;
- (e) any country consisting partly of one or more colonies and partly of one or more such countries as are mentioned in the last preceding paragraph.

(2) The powers conferred by the preceding subsection shall be exercisable in relation to any Order in Council made under the following provisions of this Part of this Act, as those powers are exercisable by virtue of that subsection in relation to the provisions of this Act.

(3) The legislature of any country to which any provisions of this Act have been extended may modify or add to those provisions, in their operation as part of the law of that country, in such manner as that legislature may consider necessary to adapt the provisions to the circumstances of that country:

Provided that no such modifications or additions, except in so far as they relate to procedure and remedies, shall be made so as to apply to any work or other subject-matter in which copyright can subsist unless—

- (a) in the case of a literary, dramatic, musical or artistic work, the author of the work, or, in the case of a sound recording or a cinematograph film, the maker of the recording or film, was domiciled or resident in that country at the time when, or during the period while, the work, recording or film was made, or
- (b) in the case of a published edition of a literary, dramatic or musical work, the publisher of the edition was domiciled or resident in that country at the date of its first publication, or
- (c) in the case of a literary, dramatic, musical or artistic work, or of a sound recording or a cinematograph film or a published edition, it was first published in that country, or
- (d) in the case of a television broadcast or sound broadcast, it was made from a place in that country.

(4) For the purposes of any proceedings under this Act in the United Kingdom, where the proceedings relate to an act done in a country to which any provisions of this Act extend subject to exceptions, modifications or additions—

- (a) the procedure applicable to the proceedings, including the time within which they may be brought, and the remedies available therein, shall be in accordance with this Act in its operation as part of the law of the United Kingdom; but
- (b) if the act in question does not constitute an infringement of copyright under this Act in its operation as part of the law of the country where the act was done, it shall (notwithstanding anything in this Act) be treated as not constituting an infringement of copyright under this Act in its operation as part of the law of the United Kingdom.

Application of Act to countries to which it does not extend

32. (1) Her Majesty may by Order in Council make provision for applying any of the provisions of this Act specified in the Order, in the case of a country to which those provisions do not extend, in any one or more of the following ways, that is to say, so as to secure that those provisions—

- (a) apply in relation to literary, dramatic, musical or artistic works, sound recordings, cinematograph films or editions first published in that country as they apply in relation to literary, dramatic, musical or artistic works, sound recordings, cinematograph films or editions first published in the United Kingdom;
- (b) apply in relation to persons who, at a material time, are citizens or subjects of that country as they apply in relation to persons who, at such a time, are British subjects;
- (c) apply in relation to persons who, at a material time, are domiciled or resident in that country as they apply in relation to persons who, at such a time, are domiciled or resident in the United Kingdom;
- (d) apply in relation to bodies incorporated under the laws of that country as they apply in relation to bodies incorporated under the laws of any part of the United Kingdom;
- (e) apply in relation to television broadcasts and sound broadcasts made from places in that country, by one or more organisations constituted in, or under the laws of, that country, as they apply in relation to television broadcasts and sound broadcasts made from places in the United Kingdom by the Corporation or the Authority.

(2) An Order in Council under this section—

- (a) may apply the provisions in question as mentioned in the preceding subsection, but subject to exceptions or modifications specified in the Order;
- (b) may direct that the provisions in question shall so apply either generally or in relation to such classes of works, or other classes of cases, as may be specified in the Order.

(3) Her Majesty shall not make an Order in Council under this section applying any of the provisions of this Act in the case of a country, other than a country which is a party to a Convention relating to copyright to which the

United Kingdom is also a party, unless Her Majesty is satisfied that, in respect of the class of works or other subject-matter to which those provisions relate, provision has been or will be made under the laws of that country whereby adequate protection will be given to owners of copyright under this Act.

Provisions as to international organisations

33. (1) Where it appears to Her Majesty that one or more sovereign Powers, or the government or governments thereof, are members of an organisation, and that it is expedient that the provisions of this section should apply to that organisation, Her Majesty may by Order in Council declare that the organisation is one to which this section applies.

(2) Where an original literary, dramatic, musical or artistic work is made by or under the direction or control of an organisation to which this section applies in such circumstances that—

- (a) copyright would not subsist in the work apart from this subsection, but
- (b) if the author of the work had been a British subject at the time when it was made, copyright would have subsisted in the work immediately after it was made and would thereupon have vested in the organisation,

copyright shall subsist in the work as if the author had been a British subject when it was made, that copyright shall continue to subsist so long as the work remains unpublished, and the organisation shall, subject to the provisions of this Act, be entitled to that copyright.

(3) Where an original literary, dramatic, musical or artistic work is first published by or under the direction or control of an organisation to which this section applies, in such circumstances that, apart from this subsection, copyright does not subsist in the work immediately after the first publication thereof, and either—

- (a) the work is so published in pursuance of an agreement with the author which does not reserve to the author the copyright (if any) in the work, or
- (b) the work was made in such circumstances that, if it had been first published in the United Kingdom, the organisation would have been entitled to the copyright in the work,

copyright shall subsist in the work (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) as if it had been first published in the United Kingdom, that copyright shall subsist until the end of the period of fifty years from the end of the calendar year in which the work was first published, and the organisation shall, subject to the provisions of Part VI of this Act, be entitled to that copyright.

(4) The provisions of Part I of this Act, with the exception of provisions thereof relating to the subsistence, duration or ownership of copyright, shall apply in relation to copyright subsisting by virtue of this section as they apply in relation to copyright subsisting by virtue of the said Part I.

(5) An organisation to which this section applies which otherwise has not, or at some material time otherwise had not, the legal capacities of a body

corporate shall have, and shall be deemed at all material times to have had, the legal capacities of a body corporate for the purpose of holding, dealing with and enforcing copyright and in connection with all legal proceedings relating to copyright.

Extended application of provisions relating to broadcasts

34. Her Majesty may by Order in Council provide that, subject to such exceptions and modifications (if any) as may be specified in the Order, such provisions of this Act relating to television broadcasts or to sound broadcasts as may be so specified shall apply in relation to the operation of wireless telegraphy apparatus by way of the emission (as opposed to reception) of electro-magnetic energy—

- (a) by such persons or classes of persons, other than the Corporation and the Authority, as may be specified in the Order, and
- (b) for such purposes (whether involving broadcasting or not) as may be so specified,

as they apply in relation to television broadcasts, or, as the case may be, to sound broadcasts, made by the Corporation and the Authority.

Denial of copyright to citizens of countries not giving adequate protection to British works

35. (1) If it appears to Her Majesty that the laws of a country fail to give adequate protection to British works to which this section applies, or fail to give such protection in the case of one or more classes of such works (whether the lack of protection relates to the nature of the work or the country of its author or both), Her Majesty may make an Order in Council designating that country and making such provision in relation thereto as is mentioned in the following provisions of this section.

(2) An Order in Council under this section shall provide that, either generally or in such classes of cases as are specified in the Order, copyright under this Act shall not subsist in works to which this section applies which were first published after a date specified in the Order, if at the time of their first publication the authors thereof were—

- (a) citizens or subjects of the country designated by the Order, not being at that time persons domiciled or resident in the United Kingdom or in another country to which the relevant provision of this Act extends, or
- (b) bodies incorporated under the laws of the country designated by the Order.

(3) In making an Order in Council under this section Her Majesty shall have regard to the nature and extent of the lack of protection for British works in consequence of which the Order is made.

(4) This section applies to the following works, that is to say, literary, dramatic, musical and artistic works, sound recordings and cinematograph films.

(5) In this section—

“British work” means a work of which the author, at the time when the work was made, was a qualified person for the purposes of the relevant provision of this Act;

“author”, in relation to a sound recording or a cinematograph film, means the maker of the recording or film;

“the relevant provision of this Act”, in relation to literary, dramatic and musical works means section two, in relation to artistic works means section three, in relation to sound recordings means section twelve, and in relation to cinematograph films means section thirteen, of this Act.

PART VI

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Assignments and licences in respect of copyright

36. (1) Subject to the provisions of this section, copyright shall be transmissible by assignment, by testamentary disposition, or by operation of law, as personal or moveable property.

(2) An assignment of copyright may be limited in any of the following ways, or in any combination of two or more of those ways, that is to say—

(a) so as to apply to one or more, but not all, of the classes of acts which by virtue of this Act the owner of the copyright has the exclusive right to do (including any one or more classes of acts not separately designated in this Act as being restricted by the copyright, but falling within any of the classes of acts so designated);

(b) so as to apply to any one or more, but not all, of the countries in relation to which the owner of the copyright has by virtue of this Act that exclusive right;

(c) so as to apply to part, but not the whole, of the period for which the copyright is to subsist;

and references in this Act to a partial assignment are references to an assignment so limited.

(3) No assignment of copyright (whether total or partial) shall have effect unless it is in writing signed by or on behalf of the assignor.

(4) A licence granted in respect of any copyright by the person who, in relation to the matters to which the licence relates, is the owner of the copyright shall be binding upon every successor in title to his interest in the copyright, except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the licence or a person deriving title from such a purchaser; and references in this Act, in relation to any copyright, to the doing of anything with, or (as the case may be) without, the licence of the owner of the copyright shall be construed accordingly.

Prospective ownership of copyright

37. (1) Where by an agreement made in relation to any future copyright, and signed by or on behalf of the prospective owner of the copyright, the prospective owner purports to assign the future copyright (wholly or partially) to another person (in this subsection referred to as “the assignee”), then if, on the coming into existence of the copyright, the assignee or a person claiming under him would, apart from this subsection, be entitled as against all other persons to require the copyright to be vested in him (wholly or partially, as the case may be), the copyright shall, on its coming into existence, vest in the assignee or his successor in title accordingly by virtue of this subsection and without further assurance.

(2) Where, at the time when any copyright comes into existence, the person who, if he were then living, would be entitled to the copyright is dead, the copyright shall devolve as if it had subsisted immediately before his death and he had then been the owner of the copyright.

(3) Subsection (4) of the last preceding section shall apply in relation to a licence granted by a prospective owner of any copyright as it applies in relation to a licence granted by the owner of a subsisting copyright, as if any reference in that subsection to the owner’s interest in the copyright included a reference to his prospective interest therein.

(4) The provisions of the Fifth Schedule to this Act shall have effect with respect to assignments and licences in respect of copyright (including future copyright) in television broadcasts.

(5) In this Act “future copyright” means copyright which will or may come into existence in respect of any future work or class of works or other subject-matter, or on the coming into operation of any provisions of this Act, or in any other future event, and “prospective owner” shall be construed accordingly and, in relation to any such copyright, includes a person prospectively entitled thereto by virtue of such an agreement as is mentioned in subsection (1) of this section.

Copyright to pass under will with unpublished work

38. Where under a bequest (whether specific or general) a person is entitled, beneficially or otherwise, to the manuscript of a literary, dramatic or musical work, or to an artistic work, and the work was not published before the death of the testator, the bequest shall, unless a contrary intention is indicated in the testator’s will or a codicil thereto, be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death.

Provisions as to Crown and Government departments

39. (1) In the case of every original literary, dramatic, musical or artistic work made by or under the direction or control of Her Majesty or a Government department—

- (a) if apart from this section copyright would not subsist in the work, copyright shall subsist therein by virtue of this subsection, and

- (b) in any case, Her Majesty shall, subject to the provisions of this Part of this Act, be entitled to the copyright in the work.
- (2) Her Majesty shall, subject to the provisions of this Part of this Act, be entitled—
- (a) to the copyright in every original literary, dramatic or musical work first published in the United Kingdom, or in another country to which section two of this Act extends, if first published by or under the direction or control of Her Majesty or a Government department;
- (b) to the copyright in every original artistic work first published in the United Kingdom, or in another country to which section three of this Act extends, if first published by or under such direction or control.
- (3) Copyright in a literary, dramatic or musical work, to which Her Majesty is entitled in accordance with either of the preceding subsections—
- (a) where the work is unpublished, shall continue to subsist so long as the work remains unpublished, and
- (b) where the work is published, shall subsist (or, if copyright in the work subsisted immediately before its first publication, shall continue to subsist) until the end of the period of fifty years from the end of the calendar year in which the work was first published, and shall then expire.
- (4) Copyright in an artistic work to which Her Majesty is entitled in accordance with the preceding provisions of this section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the work was made, and shall then expire:
- Provided that where the work in question is an engraving or a photograph, the copyright shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the engraving or photograph is first published.
- (5) In the case of every sound recording or cinematograph film made by or under the direction or control of Her Majesty or a Government department—
- (a) if apart from this section copyright would not subsist in the recording or film, copyright shall subsist therein by virtue of this subsection, and
- (b) in any case, Her Majesty shall, subject to the provisions of this Part of this Act, be entitled to the copyright in the recording or film, and it shall subsist for the same period as if it were copyright subsisting by virtue of, and owned in accordance with, section twelve or, as the case may be, section thirteen of this Act.
- (6) The preceding provisions of this section shall have effect subject to any agreement made by or on behalf of Her Majesty or a Government department with the author of the work, or the maker of the sound recording or cinematograph film, as the case may be, whereby it is agreed that the copyright in the work, recording or film shall vest in the author or maker, or in another person designated in the agreement in that behalf.

(7) In relation to copyright subsisting by virtue of this section—

- (a) in the case of a literary, dramatic, musical or artistic work, the provisions of Part I of this Act, with the exception of provisions thereof relating to the subsistence, duration or ownership of copyright; and
- (b) in the case of a sound recording or cinematograph film, the provisions of Part II of this Act, with the exception of provisions thereof relating to the subsistence or ownership of copyright,

shall apply as those provisions apply in relation to copyright subsisting by virtue of Part I or, as the case may be, Part II of this Act.

(8) For the avoidance of doubt, it is hereby declared that the provisions of section three of the Crown Proceedings Act, 1947 (which relates to infringements of industrial property by servants or agents of the Crown) apply to copyright under this Act.

(9) In this section “Government department” means any department of Her Majesty’s Government in the United Kingdom or of the Government of Northern Ireland, or any department or agency of the Government of any other country to which this section extends.

Broadcasts of sound recordings and cinematograph films, and diffusion of broadcast programmes

40. (1) Where a sound broadcast or television broadcast is made by the Corporation or the Authority, and a person, by the reception of that broadcast, causes a sound recording to be heard in public, he does not thereby infringe the copyright (if any) in that recording under section twelve of this Act.

(2) Where a television broadcast or sound broadcast is made by the Corporation or the Authority, and the broadcast is an authorised broadcast, any person who, by the reception of the broadcast, causes a cinematograph film to be seen or heard in public shall be in the like position, in any proceedings for infringement of the copyright (if any) in the film under section thirteen of this Act, as if he had been the holder of a licence granted by the owner of that copyright to cause the film to be seen or heard in public by the reception of the broadcast.

(3) Where a television broadcast or sound broadcast is made by the Corporation or the Authority, and the broadcast is an authorised broadcast, any person who, by the reception of the broadcast, causes a programme to be transmitted to subscribers to a diffusion service, being a programme comprising a literary, dramatic or musical work, or an adaptation of such a work, or an artistic work, or a cinematograph film, shall be in the like position, in any proceedings for infringement of the copyright (if any) in the work or film, as if he had been the holder of a licence granted by the owner of that copyright to include the work, adaptation or film in any programme caused to be transmitted by him to subscribers to that service by the reception of the broadcast.

(4) If, in the circumstances mentioned in either of the two last preceding subsections, the person causing the cinematograph film to be seen or heard, or the programme to be transmitted, as the case may be, infringed the copyright in question, by reason that the broadcast was not an authorised broadcast—

(a) no proceedings shall be brought against that person under this Act in respect of his infringement of that copyright, but

(b) it shall be taken into account in assessing damages in any proceedings against the Corporation or the Authority, as the case may be, in respect of that copyright, in so far as that copyright was infringed by them in making the broadcast.

(5) For the purposes of this section, a broadcast shall be taken, in relation to a work or cinematograph film, to be an authorised broadcast if, but only if, it is made by, or with the licence of, the owner of the copyright in the work or film.

Use of copyright material for education

41. (1) Where copyright subsists in a literary, dramatic, musical or artistic work, the copyright shall not be taken to be infringed by reason only that the work is reproduced, or an adaptation of the work is made or reproduced—

(a) in the course of instruction, whether at a school or elsewhere, where the reproduction or adaptation is made by a teacher or pupil otherwise than by the use of a duplicating process, or

(b) as part of the questions to be answered in an examination, or in an answer to such a question.

(2) Nothing in the preceding subsection shall apply to the publication of a work or of an adaptation of a work; and, for the purposes of section five of this Act, the fact that to a person's knowledge the making of an article would have constituted an infringement of copyright but for the preceding subsection shall have the like effect as if, to his knowledge, the making of it had constituted such an infringement.

(3) For the avoidance of doubt it is hereby declared that, where a literary, dramatic or musical work—

(a) is performed in class, or otherwise in the presence of an audience, and

(b) is so performed in the course of the activities of a school, by a person who is a teacher in, or a pupil in attendance at, the school,

the performance shall not be taken for the purposes of this Act to be a performance in public if the audience is limited to persons who are teachers in, or pupils in attendance at, the school, or are otherwise directly connected with the activities of the school.

(4) For the purposes of the last preceding subsection a person shall not be taken to be directly connected with the activities of a school by reason only that he is a parent or guardian of a pupil in attendance at the school.

(5) The two last preceding subsections shall apply in relation to sound recordings, cinematograph films and television broadcasts as they apply in relation to literary, dramatic and musical works, as if any reference to performance were a reference to the act of causing the sounds or visual images in question to be heard or seen.

(6) Nothing in this section shall be construed—

- (a) as extending the operation of any provision of this Act as to the acts restricted by copyright of any description, or
 - (b) as derogating from the operation of any exemption conferred by any provision of this Act other than this section.
- (7) In this section “school”—
- (a) in relation to England and Wales, has the same meaning as in the Education Act, 1944;
 - (b) in relation to Scotland, has the same meaning as in the Education (Scotland) Act, 1946, except that it includes an approved school within the meaning of the Children and Young Persons (Scotland) Act, 1937; and
 - (c) in relation to Northern Ireland, has the same meaning as in the Education Act (Northern Ireland), 1947;

and “duplicating process” means any process involving the use of an appliance for producing multiple copies.

Special provisions as to public records

42. (1) Where any work in which copyright subsists, or a reproduction of any such work, is comprised in—

- (a) any records belonging to Her Majesty which are under the charge and superintendence of the Master of the Rolls by virtue of an Order in Council under section two of the Public Record Office Act, 1838, and are open to public inspection in accordance with rules made under that Act, or
- (b) any public records to which the Public Records Act (Northern Ireland), 1923, applies, being records which are open to public inspection in accordance with rules made under that Act,

the copyright in the work is not infringed by the making, or the supplying to any person, of any reproduction of the work by or under the direction of any officer appointed under the said Act of 1838 or the said Act of 1923, as the case may be.

(2) In the preceding subsection “records”—

- (a) in paragraph (a) of that subsection has the same meaning as in the Public Record Office Act, 1838;
- (b) in paragraph (b) of that subsection has the same meaning as in the Public Records Act (Northern Ireland), 1923.

(3) Any reference in this section to the Public Records Act (Northern Ireland), 1923, shall be construed as including a reference to that Act as for the time being amended or re-enacted (with or without modifications) by any enactment of the Parliament of Northern Ireland.

False attribution of authorship

43. (1) The restrictions imposed by this section shall have effect in relation to literary, dramatic, musical or artistic works; and any reference in this section to a work shall be construed as a reference to such a work.

(2) A person (in this subsection referred to as “the offender”) contravenes those restrictions as respects another person if, without the licence of that other person, he does any of the following acts in the United Kingdom, that is to say, he—

- (a) inserts or affixes that other person’s name in or on a work of which that person is not the author, or in or on a reproduction of such a work, in such a way as to imply that the other person is the author of the work, or
- (b) publishes, or sells or lets for hire, or by way of trade offers or exposes for sale or hire, or by way of trade exhibits in public, a work in or on which the other person’s name has been so inserted or affixed, if to the offender’s knowledge that person is not the author of the work, or
- (c) does any of the acts mentioned in the last preceding paragraph in relation to, or distributes, reproductions of a work, being reproductions in or on which the other person’s name has been so inserted or affixed, if to the offender’s knowledge that person is not the author of the work, or
- (d) performs in public, or broadcasts, a work of which the other person is not the author, as being a work of which he is the author, if to the offender’s knowledge that person is not the author of the work.

(3) The last preceding subsection shall apply where, contrary to the fact, a work is represented as being an adaptation of the work of another person as it applies where a work is so represented as being the work of another person.

(4) In the case of an artistic work which has been altered after the author parted with the possession of it, the said restrictions are contravened, in relation to the author, by a person who in the United Kingdom, without the licence of the author—

- (a) publishes, sells or lets for hire, or by way of trade offers or exposes for sale or hire the work as so altered, as being the unaltered work of the author; or
- (b) publishes, sells or lets for hire, or by way of trade offers or exposes for sale or hire a reproduction of the work as so altered, as being a reproduction of the unaltered work of the author,

if to his knowledge it is not the unaltered work, or, as the case may be, a reproduction of the unaltered work, of the author.

(5) The three last preceding subsections shall apply with respect to anything done in relation to another person after that person’s death, as if any reference to that person’s licence were a reference to a licence given by him or by his personal representatives:

Provided that nothing in those subsections shall apply to anything done in relation to a person more than twenty years after that person’s death.

(6) In the case of an artistic work in which copyright subsists, the said restrictions are also contravened, in relation to the author of the work, by a person who in the United Kingdom—

- (a) publishes, or sells or lets for hire, or by way of trade offers or exposes for sale or hire, or by way of trade exhibits in public, a reproduction of the work, as being a reproduction made by the author of the work, or
- (b) distributes reproductions of the work as being reproductions made by the author of the work,

if (in any such case) the reproduction or reproductions was or were to his knowledge not made by the author.

(7) The preceding provisions of this section shall apply (with the necessary modifications) with respect to acts done in relation to two or more persons in connection with the same work.

(8) The restrictions imposed by this section shall not be enforceable by any criminal proceedings; but any contravention of those restrictions, in relation to a person, shall be actionable at his suit, or, if he is dead, at the suit of his personal representatives, as a breach of statutory duty.

(9) Any damages recovered under this section by personal representatives, in respect of a contravention committed in relation to a person after his death, shall devolve as part of his estate, as if the right of action had subsisted and had been vested in him immediately before his death.

(10) Nothing in this section shall derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than by virtue of this section:

Provided that this subsection shall not be construed as requiring any damages recovered by virtue of this section to be disregarded in assessing damages in any proceedings instituted otherwise than by virtue of this section and arising out of the same transaction.

(11) In this section “name” includes initials or a monogram.

Amendments of Registered Designs Act, 1949

44. (1) In section six of the Registered Designs Act, 1949, (under which the disclosure of a design in certain circumstances is not to be a reason, for refusing registration), the following subsections shall be inserted after subsection (3)—

“(4) Where copyright under the Copyright Act, 1956, subsists in an artistic work, and an application is made by, or with the consent of, the owner of that copyright for the registration of a corresponding design, that design shall not be treated for the purposes of this Act as being other than new or original by reason only of any use previously made of the artistic work, unless—

- (a) the previous use consisted of or included the sale, letting for hire, or offer for sale or hire of articles to which the design in question (or a design differing from it only as mentioned in subsection (2) of section one of this Act) had been applied industrially, other than articles of a description specified in rules made under subsection (4) of section one of this Act, and

(b) that previous use was made by, or with the consent of, the owner of the copyright in the artistic work.

(5) Any rules made by virtue of subsection (5) of section ten of the Copyright Act, 1956 (which relates to rules for determining the circumstances in which a design is to be taken to be applied industrially) shall apply for the purposes of the last foregoing subsection.”

(2) The following subsection shall be added at the end of section eight of the said Act of 1949 (which relates to the period of copyright in registered designs)—

“(3) Where in the case of a registered design it is shown—

- (a) that the design, at the time when it was registered, was a corresponding design in relation to an artistic work in which copyright subsisted under the Copyright Act, 1956;
- (b) that, by reason of a previous use of that artistic work, the design would not have been registrable under this Act but for subsection (4) of section six of this Act; and
- (c) that the copyright in that work under the Copyright Act, 1956, expired before the date of expiry of the copyright in the design,

the copyright in the design shall, notwithstanding anything in this section, be deemed to have expired at the same time as the copyright in the artistic work, and shall not be renewable after that time.”

(3) In section eleven of the said Act of 1949 (which relates to cancellation of the registration of designs), the following subsection shall be inserted after subsection (2)—

“(2A) At any time after a design has been registered, any person interested may apply to the registrar for the cancellation of the registration of the design on the grounds—

- (a) that the design, at the time when it was registered, was a corresponding design in relation to an artistic work in which copyright subsisted under the Copyright Act, 1956;
- (b) that, by reason of a previous use of that artistic work, the design would not have been registrable under this Act but for subsection (4) of section six of this Act; and
- (c) that the copyright in that work under the Copyright Act, 1956, has expired;

and the registrar may make such order on the application as he thinks fit.”

(4) In subsection (3) of the said section eleven, for the words “the last foregoing subsection” there shall be substituted the words “either of the two last foregoing subsections”.

(5) In subsection (1) of section forty-four of the said Act of 1949 (which relates to the interpretation of that Act)—

- (a) after the definition of “article” there shall be inserted the words ““artistic work” has the same meaning as in the Copyright Act, 1956”; and
- (b) after the definition of “copyright” there shall be inserted the words ““corresponding design”” has the same meaning as in section ten of the Copyright Act, 1956”.

Amendment of Dramatic and Musical Performers’ Protection Act, 1925

45. In the Dramatic and Musical Performers’ Protection Act, 1925—

- (a) after section one there shall be inserted the two sections set out in Part I of the Sixth Schedule to this Act; and
- (b) after section three there shall be inserted the two sections set out in Part II of that Schedule;

and the provisions of that Act specified in Part III of that Schedule shall have effect subject to the amendments set out in relation thereto in the second column of the said Part III (being minor amendments of that Act and amendments consequential upon the insertion therein of the sections referred to in paragraphs (a) and (b) of this section).

Savings

46. (1) Any rights conferred on universities and colleges by the Copyright Act, 1775, which continued to subsist in accordance with section thirty-three of the Copyright Act, 1911, notwithstanding the repeal of the said Act of 1775, shall continue to subsist in accordance with the said Act of 1775 notwithstanding any repeal effected by this Act:

Provided that no proceedings shall be brought under the Copyright Act, 1775, but the provisions of Part III of this Act shall apply for the enforcement of those rights as if they were copyright subsisting by virtue of this Act.

(2) Nothing in this Act shall affect any right or privilege of the Crown subsisting otherwise than by virtue of an enactment; and nothing in this Act shall affect any right or privilege of the Crown or of any other person under any enactment (including any enactment of the Parliament of Northern Ireland), except in so far as that enactment is expressly repealed, amended or modified by this Act.

(3) Nothing in this Act shall affect the right of the Crown or of any person deriving title from the Crown to sell, use or otherwise deal with articles forfeited under the laws relating to customs or excise, including any article so forfeited by virtue of this Act or of any enactment repealed by this Act.

(4) Nothing in this Act shall affect the operation of any rule of equity relating to breaches of trust or confidence.

(5) Subject to the preceding provisions of this section, no copyright, or right in the nature of copyright, shall subsist otherwise than by virtue of this Act or of some other enactment in that behalf.

General provisions as to Orders in Council, regulations, rules and orders, and as to Board of Trade

47. (1) Any power to make regulations, rules or orders under this Act shall be exercisable by statutory instrument.

(2) Any statutory instrument containing—

(a) any Order in Council or regulations made under this Act, or

(b) any rules made by the Lord Chancellor under the Fourth Schedule to this Act,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any Order in Council, or other order, made under any of the preceding provisions of this Act may be varied or revoked by a subsequent Order in Council or order made thereunder.

(4) Where a power to make regulations or rules is conferred by any provision of this Act, regulations or rules under that power may be made either as respects all, or as respects any one or more, of the matters to which the provision relates; and different provision may be made by any such regulations or rules as respects different classes of cases to which the regulations or rules apply.

(5) Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board of Trade, any Minister of State with duties concerning the affairs of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President.

(6) In this section “order” does not include an order of a court or of the tribunal.

Interpretation

48. (1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“adaptation”, in relation to a literary, dramatic or musical work, has the meaning assigned to it by section two of this Act;

“artistic work” has the meaning assigned to it by section three of this Act;

“assignment”, in relation to Scotland, means an assignation;

“building” includes any structure;

“cinematograph film” has the meaning assigned to it by section thirteen of this Act;

“construction” includes erection, and references to reconstruction shall be construed accordingly;

“the Corporation” and “the Authority” have the meanings assigned to them by section fourteen of this Act;

“country” includes any territory;

- “dramatic work” includes a choreographic work or entertainment in dumb show if reduced to writing in the form in which the work or entertainment is to be presented, but does not include a cinematograph film, as distinct from a scenario or script for a cinematograph film;
- “drawing” includes any diagram, map, chart or plan;
- “engraving” includes any etching, lithograph, woodcut, print or similar work, not being a photograph;
- “future copyright” and “prospective owner” have the meanings assigned to them by section thirty-seven of this Act;
- “judicial proceeding” means a proceeding before any court, tribunal or person having by law power to hear, receive and examine evidence on oath;
- “literary work” includes any written table or compilation;
- “manuscript”, in relation to a work, means the original document embodying the work, whether written by hand or not;
- “performance” includes delivery, in relation to lectures, addresses, speeches and sermons, and in general, subject to the provisions of subsection (5) of this section, includes any mode of visual or acoustic presentation, including any such presentation by the operation of wireless telegraphy apparatus, or by the exhibition of a cinematograph film, or by the use of a record, or by any other means, and references to performing a work or an adaptation of a work shall be construed accordingly;
- “photograph” means any product of photography or of any process akin to photography, other than a part of a cinematograph film, and “author”, in relation to a photograph, means the person who, at the time when the photograph is taken, is the owner of the material on which it is taken;
- “qualified person” has the meaning assigned to it by section one of this Act;
- “record” means any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable (with or without the aid of some other instrument) of being automatically reproduced therefrom, and references to a record of a work or other subject-matter are references to a record (as herein defined) by means of which it can be performed;
- “reproduction”, in the case of a literary, dramatic or musical work, includes a reproduction in the form of a record or of a cinematograph film, and, in the case of an artistic work, includes a version produced by converting the work into a three-dimensional form, or, if it is in three dimensions, by converting it into a two-dimensional form, and references to reproducing a work shall be construed accordingly;
- “sculpture” includes any cast or model made for purposes of sculpture;
- “sound recording” has the meaning assigned to it by section twelve of this Act;
- “sufficient acknowledgment” has the meaning assigned to it by section six of this Act;
- “television broadcast” and “sound broadcast” have the meanings assigned to them by section fourteen of this Act;

“wireless telegraphy apparatus” has the same meaning as in the Wireless Telegraphy Act, 1949;

“work of joint authorship” has the meaning assigned to it by section eleven of this Act;

“writing” includes any form of notation, whether by hand or by printing, typewriting or any similar process.

(2) References in this Act to broadcasting are references to broadcasting by wireless telegraphy (within the meaning of the Wireless Telegraphy Act, 1949), whether by way of sound broadcasting or of television.

(3) References in this Act to the transmission of a work or other subject-matter to subscribers to a diffusion service are references to the transmission thereof in the course of a service of distributing broadcast programmes, or other programmes (whether provided by the person operating the service or other persons), over wires, or other paths provided by a material substance, to the premises of subscribers to the service; and for the purposes of this Act, where a work or other subject-matter is so transmitted—

(a) the person operating the service (that is to say, the person who, in the agreements with subscribers to the service, undertakes to provide them with the service, whether he is the person who transmits the programmes or not) shall be taken to be the person causing the work or other subject-matter to be so transmitted, and

(b) no person, other than the person operating the service, shall be taken to be causing it to be so transmitted, notwithstanding that he provides any facilities for the transmission of the programmes:

Provided that, for the purposes of this subsection, and of references to which this subsection applies, no account shall be taken of a service of distributing broadcast or other programmes, where the service is only incidental to a business of keeping or letting premises where persons reside or sleep, and is operated as part of the amenities provided exclusively or mainly for residents or inmates therein.

(4) References in this Act to the doing of any act by the reception of a television broadcast or sound broadcast made by the Corporation or the Authority are references to the doing of that act by means of receiving the broadcast either—

(a) from the transmission whereby the broadcast is made by the Corporation or the Authority, as the case may be, or

(b) from a transmission made by the Corporation or the Authority, as the case may be, otherwise than by way of broadcasting, but simultaneously with the transmission mentioned in the preceding paragraph,

whether (in either case) the reception of the broadcast is directly from the transmission in question or from a re-transmission thereof made by any person from any place, whether in the United Kingdom or elsewhere; and in this subsection “re-transmission” means any re-transmission, whether over paths provided by a material substance or not, including any re-transmission made by making use of any record, print, negative, tape or other article on which the broadcast in question has been recorded.

(5) For the purposes of this Act, broadcasting, or the causing of a work or other subject-matter to be transmitted to subscribers to a diffusion service, shall not be taken to constitute performance, or to constitute causing visual images or sounds to be seen or heard; and where visual images or sounds are displayed or emitted by any receiving apparatus, to which they are conveyed by the transmission of electromagnetic signals (whether over paths provided by a material substance or not)—

- (a) the operation of any apparatus whereby the signals are transmitted, directly or indirectly, to the receiving apparatus shall not be taken to constitute performance or to constitute causing the visual images or sounds to be seen or heard; but
- (b) in so far as the display or emission of the images or sounds constitutes a performance, or causes them to be seen or heard, the performance, or the causing of the images or sounds to be seen or heard, as the case may be, shall be taken to be effected by the operation of the receiving apparatus.

(6) Without prejudice to the last preceding subsection, where a work or an adaptation of a work is performed, or visual images or sounds are caused to be seen or heard, by the operation of any apparatus to which this subsection applies, being apparatus provided by or with the consent of the occupier of the premises where the apparatus is situated, the occupier of those premises shall, for the purposes of this Act, be taken to be the person giving the performance, or causing the images or sounds to be seen or heard, whether he is the person operating the apparatus or not.

This subsection applies to any such receiving apparatus as is mentioned in the last preceding subsection, and to any apparatus for reproducing sounds by the use of a record.

(7) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

Supplementary provisions as to interpretation

49. (1) Except in so far as the context otherwise requires, any reference in this Act to the doing of an act in relation to a work or other subject-matter shall be taken to include a reference to the doing of that act in relation to a substantial part thereof, and any reference to a reproduction, adaptation or copy of a work, or a record embodying a sound recording, shall be taken to include a reference to a reproduction, adaptation or copy of a substantial part of the work, or a record embodying a substantial part of the sound recording, as the case may be:

Provided that, for the purposes of the following provisions of this Act, namely subsections (1) and (2) of section two, subsections (2) and (3) of section three, subsections (2) and (3) of section thirty-three, section thirty-eight, and subsections (2) to (4) of section thirty-nine, this subsection shall not affect the construction of any reference to the publication, or absence of publication, of a work.

(2) With regard to publication, the provisions of this subsection shall have effect for the purposes of this Act, that is to say—

- (a) the performance, or the issue of records, of a literary, dramatic or musical work, the exhibition of an artistic work, the construction of a work of architecture, and the issue of photographs or engravings of a work of architecture or of a sculpture, do not constitute publication of the work;
- (b) except in so far as it may constitute an infringement of copyright, or a contravention of any restriction imposed by section forty-three of this Act, a publication which is merely colourable, and not intended to satisfy the reasonable requirements of the public, shall be disregarded;
- (c) subject to the preceding paragraphs, a literary, dramatic or musical work, or an edition of such a work, or an artistic work, shall be taken to have been published if, but only if, reproductions of the work or edition have been issued to the public;
- (d) a publication in the United Kingdom, or in any other country, shall not be treated as being other than the first publication by reason only of an earlier publication elsewhere, if the two publications took place within a period of not more than thirty days;

and in determining, for the purposes of paragraph (c) of this subsection, whether reproductions of a work or edition have been issued to the public, the preceding subsection shall not apply.

(3) In determining for the purposes of any provision of this Act—

- (a) whether a work or other subject-matter has been published, or
- (b) whether a publication of a work or other subject-matter was the first publication thereof, or
- (c) whether a work or other subject-matter was published or otherwise dealt with in the lifetime of a person,

no account shall be taken of any unauthorised publication or of the doing of any other unauthorised act; and (subject to subsection (7) of section seven of this Act) a publication or other act shall for the purposes of this subsection be taken to have been unauthorised—

- (i) if copyright subsisted in the work or other subject-matter and the act in question was done otherwise than by, or with the licence of, the owner of the copyright, or
- (ii) if copyright did not subsist in the work or other subject-matter, and the act in question was done otherwise than by, or with the licence of, the author (or, in the case of a sound recording or a cinematograph film, or an edition of a literary, dramatic or musical work, the maker or publisher, as the case may be) or persons lawfully claiming under him:

Provided that nothing in this subsection shall affect any provisions of this Act as to the acts restricted by any copyright or as to acts constituting infringements of copyrights, or any provisions of section forty-three of this Act.

(4) References in this Act to the time at which, or the period during which, a literary, dramatic or musical work was made are references to the time

or period at or during which it was first reduced to writing or some other material form.

(5) In the case of any copyright to which (whether in consequence of a partial assignment or otherwise) different persons are entitled in respect of the application of the copyright—

- (a) to the doing of different acts or classes of acts, or
- (b) to the doing of one or more acts or classes of acts in different countries or at different times,

the owner of the copyright, for any purpose of this Act, shall be taken to be the person who is entitled to the copyright in respect of its application to the doing of the particular act or class of acts, or, as the case may be, to the doing thereof in the particular country or at the particular time, which is relevant to the purpose in question; and, in relation to any future copyright to which different persons are prospectively entitled, references in this Act to the prospective owner of the copyright shall be construed accordingly.

(6) Without prejudice to the generality of the last preceding subsection, where under any provision of this Act a question arises whether an article of any description has been imported or sold, or otherwise dealt with, without the licence of the owner of any copyright, the owner of the copyright, for the purpose of determining that question, shall be taken to be the person entitled to the copyright in respect of its application to the making of articles of that description in the country into which the article was imported, or, as the case may be, in which it was sold or otherwise dealt with.

(7) Where the doing of anything is authorised by the grantee of a licence, or a person deriving title from the grantee, and it is within the terms (including any implied terms) of the licence for him to authorise it, it shall for the purposes of this Act be taken to be done with the licence of the grantor and of every other person (if any) upon whom the licence is binding.

(8) References in this Act to deriving title are references to deriving title either directly or indirectly.

(9) Where, in the case of copyright of any description—

- (a) provisions contained in this Act specify certain acts as being restricted by the copyright, or as constituting infringements thereof, and
- (b) other provisions of this Act specify certain acts as not constituting infringements of the copyright,

the omission or exclusion of any matter from the latter provisions shall not be taken to extend the operation of the former provisions.

(10) Any reference in this Act to countries to which a provision of this Act extends includes a country to which that provision extends subject to exceptions, modifications or additions.

Transitional provisions, and repeals

50. (1) The transitional provisions contained in the Seventh Schedule to this Act shall have effect for the purposes of this Act; and the provisions of the

Eighth Schedule to this Act shall have effect in accordance with those transitional provisions.

(2) Subject to the said transitional provisions, the enactments specified in the Ninth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Short title, commencement and extent

51. (1) This Act may be cited as the Copyright Act, 1956.

(2) This Act shall come into operation on such day as the Board of Trade may by order appoint; and different days may be appointed for the purposes of different provisions of this Act, and, for the purposes of any provision of this Act whereby enactments are repealed, different days may be appointed for the operation of the repeal in relation to different enactments, including different enactments contained in the same Act.

(3) It is hereby declared that this Act extends to Northern Ireland.

FIRST SCHEDULE

(Section 10)

FALSE REGISTRATION OF INDUSTRIAL DESIGNS

1. The provisions of this Schedule shall have effect where—

- (a) copyright subsists in an artistic work, and proceedings are brought under this Act relating to that work;
- (b) a corresponding design has been registered under the Act of 1949, and the copyright in the design subsisting by virtue of that registration has not expired by effluxion of time before the commencement of those proceedings; and
- (c) it is proved or admitted in the proceedings that the person registered as the proprietor of the design was not the proprietor thereof for the purposes of the Act of 1949, and was so registered without the knowledge of the owner of the copyright in the artistic work.

2. For the purposes of those proceedings (but subject to the next following paragraph) the registration shall be treated as never having been effected, and accordingly, in relation to that registration, subsection (1) of section ten of this Act shall not apply, and nothing in section seven of the Act of 1949 shall be construed as affording any defence in those proceedings.

3. Notwithstanding anything in the last preceding paragraph, if in the proceedings it is proved or admitted that any act to which the proceedings relate—

- (a) was done in pursuance of an assignment or licence made or granted by the person registered as proprietor of the design, and

- (b) was so done in good faith in reliance upon the registration, and without notice of any proceedings for the cancellation of the registration or for rectifying the entry in the register of designs relating thereto,

subsection (1) of section ten of this Act shall apply in relation to that act for the purposes of the first-mentioned proceedings.

4. In this Schedule “the Act of 1949” means the Registered Designs Act, 1949, and “corresponding design” has the meaning assigned to it by subsection (7) of section ten of this Act.

SECOND SCHEDULE

(Section 11)

DURATION OF COPYRIGHT IN ANONYMOUS AND PSEUDONYMOUS WORKS

1. Where the first publication of a literary, dramatic, or musical work, or of an artistic work other than a photograph, is anonymous or pseudonymous, then subject to the following provisions of this Schedule—

- (a) subsection (3) of section two of this Act, or, as the case may be, subsection (4) of section three of this Act, shall not apply, and
- (b) any copyright subsisting in the work by virtue of either of those sections shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the work was first published, and shall then expire.

2. The preceding paragraph shall not apply in the case of a work if, at any time before the end of the period mentioned in that paragraph, it is possible for a person without previous knowledge of the facts to ascertain the identity of the author by reasonable inquiry.

3. For the purposes of this Act a publication of a work under two or more names shall not be taken to be pseudonymous unless all those names are pseudonyms.

THIRD SCHEDULE

(Section 11)

WORKS OF JOINT AUTHORSHIP

1. In relation to a work of joint authorship, the references to the author in subsections (1) and (2) of section two of this Act, in subsections (2) and (3) of section three of this Act, and in paragraph 2 of the Second Schedule to this Act, shall be construed as references to any one or more of the authors.

2. In relation to a work of joint authorship, other than a work to which the next following paragraph applies, references to the author in subsection (3) of

section two, in subsection (4) of section three, and in subsection (6) of section seven, of this Act, shall be construed as references to the author who died last.

3. (1) This paragraph applies to any work of joint authorship which was first published under two or more names, of which one or more (but not all) were pseudonyms.

(2) This paragraph also applies to any work of joint authorship which was first published under two or more names all of which were pseudonyms, if, at any time within the period of fifty years from the end of the calendar year in which the work was first published, it is possible for a person without previous knowledge of the facts to ascertain the identity of any one or more (but not all) of the authors by reasonable inquiry.

(3) In relation to a work to which this paragraph applies, references to the author in subsection (3) of section two of this Act, and in subsection (4) of section three of this Act, shall be construed as references to the author whose identity was disclosed, or, if the identity of two or more of the authors was disclosed, as references to that one of those authors who died last.

(4) For the purposes of this paragraph the identity of an author shall be taken to have been disclosed if either—

- (a) in his case, the name under which the work was published was not a pseudonym, or
- (b) it is possible to ascertain his identity as mentioned in subparagraph (2) of this paragraph.

4. (1) In relation to a work of joint authorship of which one or more of the authors are persons to whom this paragraph applies, subsection (1) of section four of this Act shall have effect as if the author or authors, other than persons to whom this paragraph applies, had been the sole author, or (as the case may be) sole joint authors, of the work.

(2) This paragraph applies, in the case of a work, to any person such that, if he had been the sole author of the work, copyright would not have subsisted in the work by virtue of Part I of this Act.

5. In the proviso to subsection (6) of section six of this Act, the reference to other excerpts from works by the author of the passage in question—

- (a) shall be taken to include a reference to excerpts from works by the author of that passage in collaboration with any other person, or
- (b) if the passage in question is from a work of joint authorship, shall be taken to include a reference to excerpts from works by any one or more of the authors of that passage, or by any one or more of those authors in collaboration with any other person.

6. Subject to the preceding provisions of this Schedule, any reference in this Act to the author of a work shall (unless it is otherwise expressly provided) be construed, in relation to a work of joint authorship, as a reference to all the authors of the work.

FOURTH SCHEDULE*(Sections 23, 30 and 47)***PROVISIONS AS TO PERFORMING RIGHT TRIBUNAL**

1. (1) Subject to the provisions of this paragraph, the members of the tribunal shall hold office for such period as may be determined at the time of their respective appointments; and a person who ceases to hold office as a member of the tribunal shall be eligible for re-appointment.

(2) Any member of the tribunal may at any time by notice in writing to the Board of Trade, or, in the case of the chairman of the tribunal, to the Lord Chancellor, resign his appointment.

(3) The Board of Trade, or, in the case of the chairman of the tribunal, the Lord Chancellor, may declare the office of any member of the tribunal vacant on the ground of his unfitness to continue in office or incapacity to perform the duties thereof.

2. If any member of the tribunal is, by reason of illness, absence or other reasonable cause, for the time being unable to perform the duties of his office, either generally or in relation to any particular proceedings, the Board of Trade, or, in the case of the chairman of the tribunal, the Lord Chancellor, may appoint some other duly qualified person to discharge the duties of that member for any period, not exceeding six months at one time, or, as the case may be, in relation to those proceedings; and a person so appointed shall, during that period or in relation to those proceedings, have the same powers as the person in whose place he is appointed.

3. If at any time there are more than two members of the tribunal, in addition to the chairman, then, for the purposes of any proceedings, the tribunal may consist of the chairman together with any two or more of those members.

4. If the members of the tribunal dealing with any reference or application are unable to agree as to the order to be made by the tribunal, a decision shall be taken by the votes of the majority; and, in the event of an equality of votes, the chairman shall be entitled to a second or casting vote.

5. The tribunal may order that the costs or expenses of any proceedings before it incurred by any party shall be paid by any other party, and may tax or settle the amount of any costs or expenses to be paid under any such order or direct in what manner they are to be taxed.

6. (1) The Lord Chancellor may make rules as to the procedure in connection with the making of references and applications to the tribunal, and for regulating proceedings before the tribunal and, subject to the approval of the Treasury, as to the fees chargeable in respect of those proceedings.

(2) Any such rules may apply in relation to the tribunal—

(a) as respects proceedings in England and Wales, any of the provisions of the Arbitration Act, 1950, and

(b) as respects proceedings in Northern Ireland, any of the provisions of the Arbitration Act (Northern Ireland), 1937.

(3) Any such rules may include provision—

- (a) for prescribing the period within which, after the tribunal has given its decision in any proceedings, a request may be made to the tribunal to refer a question of law to the court;
- (b) for requiring notice of any intended application to the court under subsection (2) of section thirty of this Act to be given to the tribunal and to the other parties to the proceedings, and for limiting the time within which any such notice is to be given;
- (c) for suspending, or authorising or requiring the tribunal to suspend, the operation of orders of the tribunal, in cases where, after giving its decision, the tribunal refers a question of law to the court;
- (d) for modifying, in relation to orders of the tribunal whose operation is suspended, the operation of any provisions of Part IV of this Act as to the effect of orders made thereunder;
- (e) for the publication of notices, or the taking of any other steps, for securing that persons affected by the suspension of an order of the tribunal will be informed of its suspension;
- (f) for regulating or prescribing any other matters incidental to or consequential upon any request, application, order or decision under section thirty of this Act.

(4) Provision shall be made by rules of court for limiting the time for instituting proceedings under subsection (2) of section thirty of this Act, and for authorising or requiring the court, where it makes an order directing the tribunal to refer a question of law to the court, to provide in the order for suspending the operation of any order made by the tribunal in the proceedings in which the question of law arose.

(5) In this paragraph “the court” has the same meaning as in section thirty of this Act.

7. As respects proceedings in Scotland, the tribunal shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath, as if the tribunal were an arbiter under a submission.

8. Without prejudice to any method available by law for the proof of orders of the tribunal, a document purporting to be a copy of any such order, and to be certified by the chairman of the tribunal to be a true copy thereof, shall, in any legal proceedings, be sufficient evidence of the order unless the contrary is proved.

FIFTH SCHEDULE*(Sections 24 and 37)***APPOINTMENT OF TELEVISION COPYRIGHT ORGANISATIONS
BY BRITISH BROADCASTING CORPORATION AND
INDEPENDENT TELEVISION AUTHORITY****1.** In this Schedule—

- (a) references to a right to which this Schedule applies are references to the copyright (including any future copyright) in any television broadcast, in so far as the copyright relates, or when it comes into existence will relate, to the acts specified in paragraph (c) of subsection (4) of section fourteen of this Act;
- (b) references to the purposes of this Schedule are references to the purposes of negotiating or granting licences in respect of rights to which this Schedule applies.

2. The Corporation and the Authority may jointly appoint an organisation for the purposes of this Schedule; and if they do so, no other organisation shall be appointed by them or either of them for those purposes until the appointment of that organisation has been duly terminated.

3. Subject to the last preceding paragraph, the Corporation or the Authority, or each of them, may appoint an organisation for the purposes of this Schedule; and if an organisation is so appointed by the Corporation or by the Authority, no other organisation shall be appointed for the purposes of this Schedule by the Corporation or the Authority, as the case may be, until the appointment of that organisation has been duly terminated.

4. A right to which this Schedule applies shall not be assignable by the Corporation or by the Authority except to an organisation duly appointed for the purposes of this Schedule; and where such a right has been assigned to such an organisation, it shall not be assignable by the organisation except to the Corporation or the Authority, as the case may be, or to another organisation subsequently appointed for the purposes of this Schedule.

5. (1) Neither the Corporation nor the Authority shall authorise any organisation or person, other than any person in their employment under a contract of service, to negotiate or act for them with respect to the granting of licences in respect of rights to which this Schedule applies, except an organisation duly appointed for the purposes of this Schedule.

(2) An organisation appointed for the purposes of this Schedule shall not authorise any other organisation or person, other than any person in their employment under a contract of service, to negotiate or act for them, or for the Corporation or the Authority, with respect to the granting of licences in respect of rights to which this Schedule applies.

6. The appointment, or the termination of the appointment, of an organisation for the purposes of this Schedule shall not have effect unless, not less than fourteen days before the appointment or termination is to take effect, a notice is published in the *London Gazette*, the *Edinburgh Gazette* and the *Belfast Gazette*, specifying the name and address of the organisation, and the date on which the appointment or termination is to take effect, and stating

whether the appointment, or termination of appointment, is made by the Corporation or the Authority or by both of them.

7. Where notice of the appointment of an organisation for the purposes of this Schedule has been given under the last preceding paragraph, the organisation shall be taken for the purposes of this Act to be authorised to act in accordance with the appointment until their appointment is duly terminated in pursuance of a notice published in accordance with that paragraph.

SIXTH SCHEDULE

(Section 45)

AMENDMENT OF DRAMATIC AND MUSICAL PERFORMERS' PROTECTION ACT, 1925

PART I

NEW SECTIONS 1A AND 1B

Penalties for making, &c., cinematograph films without consent of performers

1A Subject to the provisions of this Act, if any person knowingly—

- (a) makes a cinematograph film, directly or indirectly, from or by means of the performance of any dramatic or musical work without the consent in writing of the performers, or
- (b) sells or lets for hire, or distributes for the purposes of trade, or by way of trade exposes or offers for sale or hire, a cinematograph film made in contravention of this Act, or
- (c) uses for the purposes of exhibition to the public a cinematograph film made in contravention of this Act,

he shall be guilty of an offence under this Act, and shall be liable on summary conviction to a fine not exceeding fifty pounds:

Provided that, where a person is charged with an offence under paragraph (a) of this section, it shall be a defence to prove that the cinematograph film was made for his private and domestic use only.

Penalties for broadcasting without consent of performers

1B Subject to the provisions of this Act, any person who, otherwise than by the use of a record or a cinematograph film, knowingly broadcasts a performance of any dramatic or musical work, or any part of such a performance, without the consent in writing of the performers shall be guilty of an offence under this Act, and shall be liable on summary conviction to a fine not exceeding fifty pounds.

PART II

NEW SECTIONS 3A AND 3B

Special defences

3A. Notwithstanding anything in the preceding provisions of this Act, it shall be a defence to any proceedings under this Act to prove—

- (a) that the record, cinematograph film or broadcast to which the proceedings relate was made only for the purpose of reporting current events, or
- (b) that the inclusion of the performance in question in the record, cinematograph film or broadcast to which the proceedings relate was only by way of background or was otherwise only incidental to the principal matters comprised or represented in the record, film or broadcast.

Consent on behalf of performers

3B. Where in any proceedings under this Act it is proved—

- (a) that the record, cinematograph film or broadcast to which the proceedings relate was made with the consent in writing of a person who, at the time of giving the consent, represented that he was authorised by the performers to give it on their behalf, and
- (b) that the person making the record, film or broadcast had no reasonable grounds for believing that the person giving the consent was not so authorised,

the provisions of this Act shall apply as if it had been proved that the performers had themselves consented in writing to the making of the record, film or broadcasts.

PART III

MINOR AND CONSEQUENTIAL AMENDMENTS

*Provision amended**Amendment*

Section one... At the beginning of the section there shall be inserted the words “Subject to the provisions of this Act”; and at the end of the section, for the words “not made for purposes of trade” there shall be substituted the words “made for his private and domestic use only”.

Section three... For the words “records or “there shall be substituted the words “records, cinematograph films”.

Section four... At the end of the definition of the expression “record” there shall be inserted the words “including the sound- track of a cinematograph film”; and at the end of the section there shall be inserted the following definitions—

“The expression “cinematograph film” means any print, negative, tape or other article on which a performance of a dramatic or musical work or part thereof is recorded for the purposes of visual reproduction, and any reference to the making of a cinematograph film is a reference to the carrying out of any process whereby such a performance or part thereof is so recorded;

The expression “broadcast” means broadcast by wireless telegraphy (within the meaning of the Wireless Telegraphy Act, 1949), whether by way of sound broadcasting or of television”.

SEVENTH SCHEDULE

(Section 50)

TRANSITIONAL PROVISIONS

PART I

PROVISIONS RELATING TO PART I OF ACT

Conditions for subsistence of copyright

1. In the application of sections two and three to works first published before the commencement of those sections, subsection (2) of section two, and subsection (3) of section three, shall apply as if paragraphs (b) and (c) of those subsections were omitted.

Duration of copyright

2. In relation to any photograph taken before the commencement of section three, subsection (4) of that section shall not apply, but, subject to subsection (3) of that section, copyright subsisting in the photograph by virtue of that section shall continue to subsist until the end of the period of fifty years from the end of the calendar year in which the photograph was taken, and shall then expire.

Ownership of copyright

3. (1) Subsections (2) to (4) of section four shall not apply—

(a) to any work made as mentioned in subsection (2) or subsection (4) of that section, if the work was so made before the commencement of that section, or

(b) to any work made as mentioned in subsection (3) of that section, if the work was or is so made in pursuance of a contract made before the commencement of that section.

(2) In relation to any work to which the preceding sub-paragraph applies, subsection (1) of section four shall have effect subject to the proviso set out in

paragraph 1 of the Eighth Schedule to this Act (being the proviso to subsection (1) of section five of the Act of 1911).

Infringements of copyright

4. For the purposes of section five, the fact that, to a person's knowledge, the making of an article constituted an infringement of copyright under the Act of 1911, or would have constituted such an infringement if the article had been made in the place into which it is imported, shall have the like effect as if, to that person's knowledge, the making of the article had constituted an infringement of copyright under this Act.

5. Subsection (7) of section six does not apply to assignments made or licences granted before the commencement of that section.

6. (1) References in section eight to records previously made by, or with the licence of, the owner of the copyright in a work include references to records previously made by, or with the consent of, the owner of the copyright in that work under the Act of 1911.

(2) The repeal by this Act of any provisions of section nineteen, of the Act of 1911, or of the provisions of the Copyright Order Confirmation (Mechanical Instruments: Royalties) Act, 1928, shall not affect the operation of those provisions, or of any regulations or order made thereunder, in relation to a record made before the repeal.

7. (1) In relation to a painting, drawing, engraving, photograph or cinematograph film made before the commencement of section nine, subsection (6) of that section shall apply if, by virtue of subsection (3) or subsection (4) of that section, the making of the painting, drawing, engraving, photograph or film would not have constituted an infringement of copyright under this Act if this Act had been in operation at the time when it was made.

(2) In subsection (10) of section nine, the reference to construction by, or with the licence of, the owner of the copyright in any architectural drawings or plans includes a reference to construction by, or with the licence of, the person who, at the time of the construction, was the owner of the copyright in the drawings or plans under the Act of 1911, or under any enactment repealed by that Act.

8. (1) Section ten and the First Schedule to this Act do not apply to artistic works made before the commencement of that section.

(2) Copyright shall not subsist by virtue of this Act in any artistic work made before the commencement of section ten which, at the time when the work was made, constituted a design capable of registration under the Registered Designs Act, 1949, or under the enactments repealed by that Act, and was used, or intended to be used, as a model or pattern to be multiplied by any industrial process.

(3) The provisions set out in paragraph 2 of the Eighth Schedule to this Act (being the relevant provisions of the Copyright (Industrial Designs) Rules, 1949) shall apply for the purposes of the last preceding sub-paragraph.

9. (1) Where, before the repeal by this Act of section three of the Act of 1911, a person has, in the case of a work, given the notice requisite under the proviso set out in paragraph 3 of the Eighth Schedule to this Act (being the

proviso to the said section three), then, as respects reproductions by that person of that work after the repeal of that section by this Act, that proviso shall have effect as if it had been re-enacted in this Act as a proviso to subsection (2) of section one:

Provided that the said proviso shall so have effect subject to the provisions set out in paragraphs 4 and 5 of the Eighth Schedule to this Act (being so much of subsection (1) of sections sixteen and seventeen respectively of the Act of 1911 as is applicable to the said proviso), as if those provisions had also been re-enacted in this Act.

(2) For the purposes of the operation of the said proviso in accordance with the preceding sub-paragraph, any regulations made by the Board of Trade thereunder before the repeal of section three of the Act of 1911 shall have effect as if they had been made under this Act, and the power of the Board of Trade to make further regulations thereunder shall apply as if the proviso had been re-enacted as mentioned in the preceding sub-paragraph.

Works of joint authorship

10. (1) Notwithstanding anything in section eleven, or in the Third Schedule to this Act, copyright shall not subsist by virtue of Part I of this Act in any work of joint authorship first published before the commencement of section eleven, if the period of copyright had expired before the commencement of that section.

(2) In this paragraph “the period of copyright” means whichever is the longer of the following periods, that is to say—

- (a) the life of the author who died first and a term of fifty years after his death, and
- (b) the life of the author who died last.

PART II

PROVISIONS RELATING TO PART II OF ACT

Sound recordings

11. In the case of a sound recording made before (the commencement of section twelve, subsection (3) of that section shall apply with the substitution, for the period mentioned in that subsection, of the period of fifty years from the end of the calendar year in which the recording was made.

12. Subsection (6) of section twelve shall not apply to a sound recording made before the commencement of that section.

13. Notwithstanding anything in section twelve, copyright shall not subsist by virtue of that section in a sound recording made before the first day of July, nineteen hundred and twelve, unless, immediately before the commencement of that section, a corresponding copyright subsisted, in relation to that recording, by virtue of subsection (8) of section nineteen of the Act of 1911 (which relates to records made before the commencement of that Act).

Cinematograph films

14. Section thirteen shall not apply to cinematograph films made before the commencement of that section.

15. Where a cinematograph film made before the commencement of section thirteen was an original dramatic work within the definition of “dramatic work” set out in paragraph 9 of the Eighth Schedule to this Act (being the definition thereof in the Act of 1911), the provisions of this Act, including the provisions of this Schedule other than this paragraph, shall have effect in relation to the film as if it had been an original dramatic work within the meaning of this Act; and the person who was the author of the work for the purposes of the Act of 1911 shall be taken to be the author thereof for the purposes of the said provisions as applied by this paragraph.

16. The provisions of this Act shall have effect in relation to photographs forming part of a cinematograph film made before the commencement of section thirteen as those provisions have effect in relation to photographs not forming part of a cinematograph film.

Television broadcasts and sound broadcasts

17. Copyright shall not subsist by virtue of section fourteen in any television broadcast or sound broadcast made before the commencement of that section.

18. For the purposes of subsection (3) of section fourteen, a previous television broadcast or sound broadcast shall be disregarded if it was made before the commencement of that section.

Supplementary

19. For the purposes of subsections (2) to (4) of section sixteen, the fact that, to a person’s knowledge, the making of an article constituted an infringement of copyright under the Act of 1911, or would have constituted such an infringement if the article had been made in the place into which it is imported, shall have the like effect as if, to that person’s knowledge, the making of the article had constituted an infringement of copyright under this Act.

PART III

PROVISIONS RELATING TO PART III OF ACT

20. Nothing in section seventeen shall apply to any infringement of copyright under the Act of 1911, or shall affect any proceedings under that Act, whether begun before or after the commencement of that section.

21. Section eighteen shall not apply with respect to any article made, or, as the case may be, imported, before the commencement of that section; but, notwithstanding the repeal by this Act of section seven of the Act of 1911 (which contains provisions corresponding to subsection (1) of section eighteen), proceedings may (subject to the provisions of that Act) be brought or continued by virtue of the said section seven in respect of any article made or imported

before the repeal, although the proceedings relate to the conversion or detention thereof after the repeal took effect.

22. Section nineteen shall not apply to any licence granted before the commencement of that section, and shall not affect any proceedings under the Act of 1911, whether begun before or after the commencement of that section.

23. For the purposes of section twenty-one the definition of “infringing copy” in section eighteen shall apply as if any reference: to copyright in that definition included a reference to copyright under the Act of 1911.

24. Where before the commencement of section twenty-two a notice had been given in respect of a work under section fourteen of the Act of 1911 (which contains provisions corresponding to section twenty-two), and that notice had not been withdrawn and had not otherwise ceased to have effect before the commencement of section twenty-two, the notice shall have effect after the commencement of that section as if it had been duly given thereunder:

Provided that a notice shall not continue to have effect by virtue of this paragraph after the end of the period of six months beginning with the commencement of section twenty-two.

PART IV

PROVISIONS RELATING TO PART IV OF ACT

25. The provisions of Part IV of this Act shall apply in relation to licence schemes made before the commencement of that Part as they apply in relation to licence schemes made thereafter, as if references in Part IV of this Act to copyright included references to copyright under the Act of 1911.

26. In section twenty-seven, references to a refusal or failure to grant or procure the grant of a licence, or to a proposal that a licence should be granted, do not include a refusal or failure which occurred, or a proposal made, before the commencement of that section.

PART V

PROVISIONS RELATING TO PART V OF ACT

27. In section thirty-three, subsection (2) shall not apply to works made before the commencement of that section, and subsection (3) shall not apply to works first published before the commencement of that section.

PART VI

PROVISIONS RELATING TO PART VI OF ACT

Assignments, licences and bequests

28. (1) Where by virtue of any provision of this Act copyright subsists in a work, any document or event which—

- (a) was made or occurred before the commencement of that provision, and
- (b) had any operation affecting the title to copyright in the work under the Act of 1911, or would have had such an operation if the Act of 1911 had continued in force,

shall have the corresponding operation in relation to the copyright in the work under this Act:

Provided that, if the operation of any such document was or would have been limited to a period specified in the document, it shall not have any operation in relation to the copyright under this Act, except in so far as that period extends beyond the commencement of the provision of this Act by virtue of which copyright subsists in the work.

(2) For the purposes of the operation of a document in accordance with the preceding sub-paragraph—

- (a) expressions used in the document shall be construed in accordance with their effect immediately before the commencement of the provision in question, notwithstanding that a different meaning is assigned to them for the purposes of this Act; and
- (b) subsection (1) of section thirty-seven shall not apply.

(3) Without prejudice to the generality of sub-paragraph (1) of this paragraph, the proviso set out in paragraph 6 of the Eighth Schedule to this Act (being the proviso to subsection (2) of section five of the Act of 1911) shall apply to assignments and licences having effect in relation to copyright under this Act in accordance with that sub-paragraph, as if that proviso had been re-enacted in this Act.

(4) In relation to copyright under this Act in a sound recording or in a cinematograph film, the preceding provisions of this paragraph shall apply subject to the following modifications, that is to say—

- (a) in the case of a sound recording, references to the copyright under the Act of 1911 shall be construed as references to the copyright under that Act in records embodying the recording, and
- (b) in the case of a cinematograph film, references to the copyright under the Act of 1911 shall be construed as references to any copyright under that Act in the film (in so far as it constituted a dramatic work for the purposes of the Act of 1911) or in photographs forming part of the film.

(5) In this paragraph “operation affecting the title”, in relation to copyright under the Act of 1911, means any operation affecting the ownership of that copyright, or creating, transferring or terminating an interest, right or licence in respect of that copyright.

29. (1) Section thirty-eight shall not apply to a bequest contained in the will, or a codicil to the will, of a testator who died before the commencement of that section.

(2) In the case of an author who died before the commencement of section thirty-eight, the provision set out in paragraph 7 of the Eighth Schedule

to this Act (being subsection (2) of section seventeen of the Act of 1911) shall have effect as if it had been re-enacted in this Act.

Crown and Government departments

30. Subsection (4) of section thirty-nine shall apply in relation to photographs taken before the commencement: of that section as if the proviso to that subsection were omitted.

31. (1) In the application of subsection (5) of section thirty-nine to a sound recording made before the commencement of that section, paragraph (b) of that subsection shall apply as if for the period mentioned in that paragraph there were substituted the period of fifty years from the end of the calendar year in which the recording was made.

(2) With respect to cinematograph films made before the commencement of section thirty-nine—

- (a) subsection (5) of that section shall not apply, but
- (b) in the case of a cinematograph film made as mentioned in that subsection, but before the commencement of section thirty-nine, if it was an original dramatic work as mentioned in paragraph 15 of this Schedule, the provisions of subsections (1) to (3) of section thirty-nine shall apply in accordance with that paragraph, and
- (c) in relation to photographs forming part of such a cinematograph film the provisions of subsections (1), (2) and (4) of section thirty-nine (as modified by the last preceding paragraph) shall apply as they apply in relation to photographs not forming part of a cinematograph film.

False attribution of authorship

32. (1) Paragraphs (b) and (c) of subsection (2) of section forty-three shall apply to any such act as is therein mentioned, if done after the commencement of that section, notwithstanding that the name in question was inserted or affixed before the commencement of that section.

(2) Subject to the preceding sub-paragraph, no act done before the commencement of section forty-three shall be actionable by virtue of that section.

(3) In this paragraph “name” has the same meaning as in section forty-three.

Other provisions

33. (1) In the application of subsection (2) of section forty-nine to a publication effected before the commencement of that section, the reference in paragraph (d) to thirty days shall be treated as a reference to fourteen days.

(2) For the purposes of the application of subsection (3) of section forty-nine to an act done before the commencement of a provision of this Act to which that subsection applies, references to copyright include references to copyright

under the Act of 1911, and, in relation to copyright under that Act, references to the licence of the owner are references to the consent or acquiescence of the owner.

PART VII

WORKS MADE BEFORE 1ST JULY, 1912

34. (1) This Part of this Schedule applies to works made before the first day of July, nineteen hundred and twelve.

(2) In this Part of this Schedule “right conferred by the Act of 1911”, in relation to a work, means such a substituted right as, by virtue of section twenty-four of the Act of 1911, was conferred in place of a right subsisting immediately before the commencement of that Act.

35. Notwithstanding anything in Part I of this Schedule, neither subsection (1) or subsection (2) of section two, nor subsection (2) or subsection (3) of section three, shall apply to a work to which this Part of this Schedule applies, unless a right conferred by the Act of 1911 subsisted in the work immediately before the commencement of section two or section three, as the case may be.

36. (1) Where, in the case of a dramatic or musical work to which this Part of this Schedule applies, the right conferred by the Act of 1911 did not include the sole right to perform the work in public, then, in so far as copyright subsists in the work by virtue of this Act, the acts restricted by the copyright shall be treated as not including those specified in sub-paragraph (3) of this paragraph.

(2) Where, in the case of a dramatic or musical work to which this Part of this Schedule applies, the right conferred by the Act of 1911 consisted only of the sole right to perform the work in public, then, in so far as copyright subsists in the work by virtue of this Act, the acts restricted by the copyright shall be treated as consisting only of those specified in sub-paragraph (3) of this paragraph.

(3) The said acts are—

- (a) performing the work or an adaptation thereof in public;
- (b) broadcasting the work or an adaptation thereof;
- (c) causing the work or an adaptation thereof to be transmitted to subscribers to a diffusion service.

37. Where a work to which this Part of this Schedule applies consists of an essay, article or portion forming part of and first published in a review, magazine or other periodical or work of a like nature, and immediately before the commencement of section two a right of publishing the work in a separate form subsisted by virtue of the provision set out in paragraph 8 of the Eighth Schedule to this Act (being the note appended to the First Schedule to the Act of 1911), that provision shall have effect, in relation to that work, as if it had been re-enacted in this Act with the substitution, for the word “right” where it first occurs, of the word “copyright.”

38. (1) Without prejudice to the generality of sub-paragraph (1) of paragraph 28 of this Schedule, the provisions of this paragraph shall have effect where—

- (a) the author of a work to which this Part of this Schedule applies had, before the commencement of the Act of 1911, made such an assignment or grant as is mentioned in paragraph (a) of the proviso to subsection (1) of section twenty-four of that Act (which relates to transactions whereby the author had assigned, or granted an interest in, the copyright or performing right in a work for the full term of that right under the law in force before the Act of 1911), and
- (b) copyright subsists in the work by virtue of any provision of this Act.

(2) If, before the commencement of that provision of this Act, any event occurred, or notice was given, which in accordance with paragraph (a) of the said proviso had any operation affecting the ownership of the right conferred by the Act of 1911 in relation to the work, or creating, transferring or terminating an interests right or licence in respect of that right, that event or notice shall have the corresponding operation in relation to the copyright in the work under this Act.

(3) Any right which, at a time after the commencement of that provision of this Act, would, by virtue of paragraph (a) of the said proviso, have been exercisable in relation to the work, or to the right conferred by the Act of 1911, if this Act had not been passed, shall be exercisable in relation to the work or to the copyright therein under this Act, as the case may be.

(4) If, in accordance with paragraph (a) of the said proviso, the right conferred by the Act of 1911 would have reverted to the author or his personal representatives on the date referred to in that paragraph, and the said date falls after the commencement of the provision of this Act whereby copyright subsists in the work, then on that date—

- (a) the copyright in the work under this Act shall revert to the author or his personal representatives, as the case may be, and
- (b) any interest of any other person in that copyright which subsists on that date by virtue of any document made before the commencement of the Act of 1911 shall thereupon determine.

PART VIII

GENERAL AND SUPPLEMENTARY PROVISIONS

39. (1) The provisions of this paragraph shall have effect for the construction of any reference in any provision of this Act—

- (a) to countries to which that provision extends, or
- (b) to qualified persons.

(2) Where, at any time after the commencement of any provisions of this Act, a provision which contains such a reference—

- (a) has not yet been extended by virtue of section thirty-one to a country to which the Act of 1911 extended (or which, by virtue of that Act, was to be treated as a country to which it extended), and

- (b) has not been applied in the case of that country by virtue of section thirty-two,

then, with respect to any time before the provision is so extended or applied, the reference shall be construed as if the provision did extend to that country.

(3) For the purpose of determining whether copyright subsists in any work or other subject-matter at a time when a provision containing such a reference has been extended to a country other than the United Kingdom, the reference shall be construed, in relation to past events, as if that provision had always been in operation and had always extended to that country.

(4) In relation to photographs taken before the commencement of section three, and to sound recordings made before the commencement of section twelve, the definition of “qualified person” in subsection (5) of section one shall apply as if, in paragraph (b) of that subsection, for the words “body incorporated under the laws of” there were substituted the words “body corporate which has established a place of business in”.

40. (1) The provisions of the two next following sub-paragraphs shall apply where—

- (a) immediately before the date on which any provisions of the Act of 1911 (in this paragraph referred to as “the repealed provisions”) are repealed in the law of the United Kingdom by this Act, the repealed provisions have effect as applied by an Order in Council made in respect of a foreign country under section twenty-nine of the Act of 1911; and
- (b) no Order in Council under section thirty-two of this Act, applying any provisions of this Act in the case of that country, is made so as to come into force on or before that date.

(2) The repealed provisions, as applied by the Order in Council under section twenty-nine of the Act of 1911 (or by that Order as varied by any subsequent Order thereunder), shall continue to have effect, notwithstanding the repeal, until the occurrence of whichever of the following events first occurs, that is to say—

- (a) the revocation of the Order in Council under section twenty nine of the Act of 1911;
- (b) the coming into operation of an Order in Council under section thirty-two of this Act applying any of the provisions of this Act in the case of the foreign country in question;
- (c) the expiration of the period of two years beginning with the date mentioned in the preceding sub-paragraph.

(3) For the purposes of continuing, varying or terminating the operation of the repealed provisions in accordance with the last preceding sub-paragraph, and for the purposes of any proceedings arising out of the operation of those provisions in accordance with that sub-paragraph, all the provisions of the Act of 1911 (including the power to revoke or vary Orders in Council under section twenty-nine of that Act) shall be treated as continuing in force as if none of those provisions had been repealed by this Act.

(4) In relation to a country in respect of which an Order in Council has been made under subsection (3) of section twenty-six of the Act of 1911 (which relates to countries therein referred to as self-governing dominions to which that Act does not extend), the preceding provisions of this paragraph shall apply as they apply in relation to a foreign country, with the substitution, for references to section twenty-nine of the Act of 1911, of references to the said subsection (3).

41. In so far as the Act of 1911 or any Order in Council made thereunder forms part of the law of any country other than the United Kingdom, at a time after that Act has been wholly or partly repealed in the law of the United Kingdom, it shall, so long as it forms part of the law of that country, be construed and have effect as if that Act had not been so repealed.

42. The mention of any particular matter in the preceding provisions of this Schedule with regard to the repeal of any of the provisions of the Act of 1911 shall not affect the general application to this Act of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), either in relation to the Act of 1911 or to any other enactment repealed by this Act.

43. For the purposes of the application, by virtue of any of the preceding paragraphs of this Schedule, of any of the provisions set out in the Eighth Schedule to this Act—

- (a) the expressions of which definitions are set out in paragraph 9 of that Schedule (being the definitions of those expressions in the Act of 1911) shall, notwithstanding anything in this Act, be construed in accordance with those definitions; and
- (b) where, for those purposes, any of those provisions is to be treated as if re-enacted in this Act, it shall be treated as if it had been so re-enacted with the substitution, for the words “this Act”, wherever the reference is to the passing or the commencement of the Act of 1911, of the words “the Copyright Act, 1911”.

44. Without prejudice to the operation of any of the preceding provisions of this Schedule—

- (a) any enactment or other document referring to an enactment repealed by this Act shall be construed as referring (or as including a reference) to the corresponding enactment of this Act;
- (b) any enactment or other document referring to copyright, or to works in which copyright subsists, if apart from this Act it would be construed as referring to copyright under the Act of 1911, or to works in which copyright subsists under that Act, shall be construed as referring (or as including a reference) to copyright under this Act, or, as the case may be, to works or any other subject-matter in which copyright subsists under this Act;
- (c) any reference in an enactment or other document to the grant of an interest in copyright by licence shall be construed, in relation to copyright under this Act, as a reference to the grant of a licence in respect of that copyright.

45. (1) Except in so far as it is otherwise expressly provided in this Schedule, the provisions of this Act apply in relation to things existing at the

commencement of those provisions as they apply in relation to things coming into existence thereafter.

(2) For the purposes of any reference in this Schedule to works, sound recordings or cinematograph films made before the commencement of a provision of this Act, a work, recording or film, the making of which extended over a period, shall not be taken to have been so made unless the making of it was completed before the commencement of that provision.

46. (1) Any reference in this Schedule to a numbered section shall, unless the reference is to a section of a specified Act, be construed as a reference to the section bearing that number in this Act.

(2) Any reference in this Schedule to the commencement of a provision of this Act is a reference to the date on which that provision comes into operation as part of the law of the United Kingdom.

47. (1) In this Schedule “photograph” has the meaning assigned to it in the definition set out in paragraph 9 of the Eighth Schedule to this Act, and not the meaning assigned to it by section forty-eight.

(2) In this Schedule “the Act of 1911” means the Copyright Act, 1911.

EIGHTH SCHEDULE

(Section 50)

PROVISIONS OF COPYRIGHT ACT, 1911, AND RULES, REFERRED TO IN SEVENTH SCHEDULE

1. Proviso to s. 5(1) of the Copyright Act, 1911 (referred to in paragraph 3 of Seventh Schedule):—

Provided that—

- (a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright; and
- (b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.

2. Rule 2 of the Copyright (Industrial Designs) Rules, 1949 (referred to in paragraph 8 of Seventh Schedule)—

A design shall be deemed to be used as a model or pattern to be multiplied by any industrial process—

- (a) when the design is reproduced or is intended to be reproduced on more than 50 single articles, unless all the articles in which the design is reproduced or is intended to be reproduced together form only a single set of articles as defined in subsection (1) of Section 44 of the Registered Designs Act, 1949, or
- (b) when the design is to be applied to—
 - (i) printed paper hangings;
 - (ii) carpets, floor cloths or oil cloths, manufactured or sold in lengths or pieces;
 - (iii) textile piece goods, or textile goods manufactured or sold in lengths or pieces; or
 - (iv) lace, not made by hand.

3. *Proviso to s. 3 of the Copyright Act, 1911 (referred to in paragraph 9 of Seventh Schedule)—*

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent. on the price at which he publishes the work; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

4. *S. 16(1) of the Copyright Act, 1911 (referred to in paragraph 9 of Seventh Schedule)—*

In the case of a work of joint authorship . . . references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter . . .

5. *S. 17(1) of Copyright Act, 1911 (referred to in paragraph 9 of Seventh Schedule)—*

In the case of a literary, dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, . . . the proviso to section three of this Act

shall . . . apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

6. *Proviso to s. 5(2) of the Copyright Act, 1911 (referred to in paragraph 28 of Seventh Schedule)*—

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

7. *S. 17(2) of the Copyright Act, 1911 (referred to in paragraph 29 of Seventh Schedule)*—

The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

8. *Note to First Schedule to the Copyright Act, 1911 (referred to in paragraph 37 of Seventh Schedule)*—

In the case of an essay, article, or portion forming part of and first published in a review, magazine, or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under section eighteen of the Copyright Act, 1842.

9. *Definitions in s. 35 (1) of the Copyright Act, 1911 (referred to in paragraphs 15, 43 and 47 of Seventh Schedule)*—

“literary work” includes maps, charts, plans, tables, and compilations;

“dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character;

“performance” means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument;

“photograph” includes photo-lithograph and any work produced by any process analogous to photography;

“collective work” means—

(a) any encyclopaedia, dictionary, year book, or similar work;

- (b) a newspaper, review, magazine, or similar periodical; and
- (c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated;

“delivery” in relation to a lecture, includes delivery by means of any mechanical instrument;

“lecture” includes address, speech and sermon.

Note—In this Schedule “this Act” means the Copyright Act, 1911.

NINTH SCHEDULE

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
25 & 26 Vict. c. 68.	The Fine Arts Copyright Act, 1862.	The whole Act.
2 Edw. 7. c.15.	The Musical (Summary Proceedings) Copyright Act, 1902.	The whole Act.
6 Edw. 7. c. 36.	The Musical Copyright Act, 1906.	The whole Act.
1 & 2 Geo. 5. c. 46.	The Copyright Act, 1911.	The whole Act, except sections fifteen, thirty-four and thirty-seven thereof.
18 & 19 Geo. 5. c. iii.	The Copyright Order Confirmation (Mechanical Instruments: Royalties) Act, 1928.	The whole Act.
11 & 12 Geo. 6. c. 7.	The Ceylon Independence Act, 1947.	Paragraph 10 of the Second Schedule.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Copyright Act, 1775	15 Geo. 3. c. 53.
Public Record Office Act, 1838	1 & 2 Viet. c. 94.
Interpretation Act, 1889	52 & 53 Viet. c. 63.
Copyright Act, 1911	1 & 2 Geo. 5. c. 46.
Dramatic and Musical Performers' Protection Act, 1925	15 & 16 Geo. 5. c. 46.
Children and Young Persons (Scotland) Act, 1937	1 Edw. 8. & 1 Geo. 6. c. 37.
Cinematograph Films Act, 1938	1 & 2 Geo. 6. c. 17.
Limitation Act, 1939	2 & 3 Geo. 6. c. 21.
Education Act, 1944	7 & 8 Geo. 6. c. 31.

Education (Scotland) Act, 1946	9 & 10 Geo. 6. c. 72.
Crown Proceedings Act, 1947	10 & 11 Geo. 6. c. 44.
British Nationality Act, 1948	11 & 12 Geo. 6. c. 56.
Wireless Telegraphy Act, 1949	12, 13 & 14 Geo. 6. c. 54.
Registered Designs Act, 1949	12, 13 & 14 Geo. 6. c. 88.
Arbitration Act, 1950	14 Geo. 6. c. 27.
Customs and Excise Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2. c. 44.