



# LAWS OF MALAYSIA

Act 332

COPYRIGHT ACT 1987

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## LAWS OF MALAYSIA

### Act 332

## COPYRIGHT ACT 1987

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## LAWS OF MALAYSIA

### Act 332

## COPYRIGHT ACT 1987

An Act to make better provisions in the law relating to copyright and for other matters connected therewith.

[c.i.f. 1st Dec. 1987] P.U.(B) 586/87

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

### PART I

#### PRELIMINARY

1. (1) This Act may be cited as the Copyright Act 1987 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint and different dates may be appointed for the coming into force of different provisions of this Act.

Short title,  
application  
and com-  
mencement.

(2) This Act shall apply throughout Malaysia.

2. (1) Subject to this section, this Act shall apply in relation to works made before the commencement of this Act as it applies in relation to works made thereafter.

Subs. by RA775  
Extent of  
application.

(2) Where only by virtue of this Act copyright subsists in a work that was made before the commencement of this Act, nothing done before the commencement of this Act shall be taken to constitute an infringement of that copyright.

(3) For the purposes of this section, a work the making of which extended over a period of time shall

not be deemed to have been made before the commencement of this Act unless the making of the work was completed before such commencement.

Interpreta-  
tion.

3. In this Act, unless the context otherwise requires—

“adaptation” includes any of the following, that is to say—

- (a) in relation to a literary work, a version of the work (whether in its original language or a different language) in which it is converted into a dramatic work;
- (b) in relation to a dramatic work, a version of the work (whether in its original language or a different language) in which it is converted into a literary work;
- (c) in relation to a literary or dramatic work—
  - (i) a translation of the work;
  - (ii) 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;
- (d) in relation to a literary work in the form of a computer program, a version of the work, whether or not in the language, code or notation in which the work was originally expressed not being a reproduction of the work;
- (e) in relation to a musical work, an arrangement or transcription of the work;
- (f) in relation to a literary or artistic work, a version of the work (whether in its original language or a different language) in which it is converted into a film;

“artistic work” includes—

- (a) paintings, drawings, etchings, lithographs, woodcuts, engravings and prints and any three dimensional work thereof;

- (b) maps, plans, charts, diagrams, illustrations, sketches and three dimensional works related to geography, topography, architecture or science;
- (c) works of sculpture;
- (d) works of architecture in the form of buildings or models<sup>of buildings</sup>
- (e) photographs not comprised in a film; and
- (f) works of artistic craftsmanship including pictorial woven tissues, tapestry and articles of applied handicraft and industrial art;

AA 715

MS-AA 1139

→ "Assistant Controller"....  
 "author",—

- (a) in relation to literary works, means the writer or the maker of the works;
- (b) in relation to musical works, means the composer;
- (c) in relation to artistic works other than photographs, means the artist;
- (d) in relation to photographs, means the person by whom the arrangements for the taking of the photograph were undertaken;
- (e) in relation to films or sound recordings, means the person by whom the arrangements for the making of the film or recording were undertaken;
- (f) in relation to broadcasts transmitted from within any country, means the person by whom the arrangements for the making of the transmissions from within that country were undertaken;
- (g) in relation to any other cases, means the person by whom the work was made;

"broadcast" means the transmitting, for reception by the general public, by wireless means or wire, of sounds or images or both; and "broadcasting" shall be construed accordingly;



“broadcasting service” means any service of radio or television broadcast, operated under the general direction and control of or under licence by the Government, in any part of Malaysia;

“building” includes any structure;

“citizen” includes a person who, if he had been alive on the relevant day, would have qualified for citizenship under the Federal Constitution;

“communication by cable” means the operation by which signals are guided by wire, beam or other conductor device, to the public or any section thereof, for reception, and “communicate by cable” shall be construed accordingly;

AA 775

“communication to the public” means the making of a work available to the public and includes, in addition to any live performance or delivery, any mode of visual or acoustic presentation; and “communicate to the public” shall be construed accordingly;

“computer program” means an expression, in any language, code or notation, of a set of instructions (whether with or without related information) intended to cause a device having an information processing capability to perform a particular function either directly or after either or both of the following:

(a) conversion to another language, code or notation;

(b) reproduction in a different material form;

“Controller”, “Deputy Controller” and “Assistant Controller” means respectively the Controller of Copyright, the Deputy Controller of Copyright and an Assistant Controller of Copyright appointed under section 5 (1);

“copy” means a reproduction of a work in written form, in the form of a recording or film, or in any other material form;

“copyright” means copyright under this Act;

Ins. AA 775 for Corporation  
AA 775 →

“derivative works” ...

Sub. AA 1129

Ins. AA 775 for Corporation  
AA 775 →

“educational institution” shall have the same meaning as assigned to it in the Education Act 1961; 43/61.

“film” means any fixation of a sequence of visual images on material of any description, whether translucent or not, so as to be capable by use of that material with or without any assistance of any contrivance—

- (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,

and includes the sounds embodied in any sound-track associated with a film;

“fixation” means the embodiment of sounds, images or both in a material form sufficiently permanent or stable to permit them to be perceived, reproduced or otherwise communicated during a period of more than transitory duration;

“future copyright” means copyright which will or may come into existence in respect of any future works or class of works or other subject matter, or on the coming into operation of any provision of this Act, or in any future event;

“Government” means the Government of Malaysia or the Government of any State;

“infringing copy” means any reproduction of any work eligible for copyright under this Act, the making of which constitutes an infringement of the copyright in the work;

AA 775

“licence” means a lawfully granted licence in writing, permitting the doing of an act controlled by copyright;

“licensing body” means a society, firm or other organization which has as its main object, or one of its main objects, the negotiation or granting of licences in respect of copyright works, and includes an individual carrying on the same activity;

the provisions  
of the  
Act

“literary work” includes—

- (a) novels, stories, books, pamphlets, manuscripts, poetical works and other writings;
- (b) plays, dramas, stage directions, film scenarios, broadcasting scripts, choreographic works and pantomimes;
- (c) treatises, histories, biographies, essays and articles;
- (d) encyclopaedias, dictionaries and other works of reference;
- (e) letters, reports and memoranda;
- (f) lectures, addresses, sermons and other works of the same nature;
- (g) tables or compilations, expressed in words, figures, or symbols (whether or not in a visible form); and

Subs. by AA 775 (h) computer programs } or compilations of  
computer programs; }

“manuscript”, in relation to a work, means the original document embodying the work, whether written by hand or not;

“material form”, in relation to a work or a derivative work, includes any form (whether visible or not) of storage from which the work or derivative work, or a substantial part of the work or derivative work can be reproduced;

“Minister” means, unless otherwise stated, the Minister charged with the responsibility for copyright matters;

Sub. AA 1139

“musical work” means any musical work, and includes works composed for musical accompaniment;

“photograph” means any product of photography or of any process akin to photography, other than a part of a film, and includes a product created through any electronic process;

“premises” means any place, stationary or otherwise established or set up by any person, ~~and includes any such place in the open air~~, whether such place is with or without enclosure, and also includes vehicles, aircraft, ships and any other vessel;

d/44195

“qualified person”,—

- (a) in relation to an individual, means a person who is a citizen of, or a permanent resident in, Malaysia; and
- (b) in relation to a body corporate, means a body corporate established in Malaysia and constituted or vested with legal personality under the laws of Malaysia;

“rebroadcast” means a simultaneous or subsequent broadcast by one broadcasting service of the broadcast ~~of~~ another broadcasting service, whether situated in Malaysia or abroad, and includes diffusion of such broadcast over wires; and “rebroadcasting” shall be construed accordingly;

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“relevant day” means Merdeka Day in respect of West Malaysia and Malaysia Day in respect of Sabah, Sarawak and the Federal Territory of Labuan;

“reproduction” means the making of one or more copies of work in any form or version and “reproducing” shall be construed accordingly;

“sound recording” means any fixation of a sequence of sounds capable of being perceived aurally and of being reproduced by any means, but does not include a sound-track associated with a film;

“Tribunal” means the Copyright Tribunal established under section 28; and

“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 separable from the contribution of the other author or authors.

Publication. 4. (1) Subject to this section, for the purposes of this Act—

- (a) a literary, musical or artistic work, or an edition of such a work, shall be deemed to have been published only if a copy or copies of the work have been made available with the consent of the author or of any person lawfully claiming under the author in a manner sufficient to satisfy the reasonable requirements of the public, whether by sale or otherwise;
- (b) a film shall be deemed to have been published only if a copy or copies of the film have been sold, let on hire, or offered or exposed for sale or hire, with the consent of the author or of any person lawfully claiming under the author in a manner sufficient to satisfy the reasonable requirements of the public; and
- (c) a sound recording shall be deemed to have been published only if a copy or copies of such sound recording have been made available with the consent of the author or of any person lawfully claiming under the author in a manner sufficient to satisfy the reasonable requirements of the public.

(2) For the purposes of this Act, the performance of a literary or musical work and the exhibition of an artistic work does not constitute publication of the work.

(3) For the purposes of this Act, a publication shall be deemed to be a first publication in Malaysia if—

- (a) the work was first published in Malaysia and not elsewhere; or
- (b) the work was first published elsewhere but published in Malaysia within thirty days of such publication elsewhere.

(4) Where in the first instance a part only of a work is published, that part shall be treated for the purposes of this Act as a separate work.

(1) The Minister may appoint a Controller of copyright and such number of Deputy Controllers of copyright, Assistant Controllers of Copyright and other officers as may be necessary for the purposes of this Act.

Appointment and powers of Controller, Deputy Controllers, etc.

(2) The Controller shall, subject to the general direction and control of the Minister, have supervision of all matters relating to copyright under this Act.

(3) The powers and functions of the Controller and the duties required to be discharged by him may be exercised and discharged by any Deputy Controller.

(4) The Controller or Deputy Controllers may perform such duties and exercise such powers and functions conferred upon an Assistant Controller by this Act.

(5) The Controller, Deputy Controllers and Assistant Controllers shall be deemed to be public servants within the meaning of the Penal Code.

F.M.S. Cap. 45.

Sub-AA1125/62

PART II

GENERAL PROVISIONS

6. Subject to this Act, no copyright shall subsist otherwise than by virtue of this Act.

No copyright except by virtue of this Act.

7. (1) Subject to this section, the following works shall be eligible for copyright:

Works eligible for copyright.

- (a) literary works;
- (b) musical works;
- (c) artistic works;
- (d) films;
- (e) sound recordings; and
- (f) broadcasts.

(2) Works shall be protected irrespective of their quality and the purpose for which they were created.

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

- (a) sufficient effort has been expended to make the work original in character; and
- (b) the work has been written down, recorded or otherwise reduced to material form.

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

Derivative works.

8. (1) The following derivative works are protected as original works:

- (a) translations, adaptations, arrangements and other transformations of ~~literary, musical or artistic works~~; and
- (b) collections of ~~literary, musical or artistic works~~ which, by reason of the selection and arrangement of their contents, constitute intellectual creation.

Works eligible for copyright  
AA 775

(2) Protection of works referred to in subsection (1) shall be without prejudice to any protection of the existing works used.

Copyright in published editions of works.

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

- (a) the first publication of the edition took place in Malaysia, ~~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:

d/AA 775

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.

(3) ~~The~~ act restricted by the copyright subsisting by virtue of this section in an edition is the making of a reproduction of the typographical arrangement of the edition.

Subject to the provisions of this Act, the  
AA 775

(4)(5) ---

← AA 775

10. (1) Copyright shall subsist in every work eligible for copyright of which the author or in the case of a work of joint authorship, any of the authors is, at the time when the work is made, a qualified person.

Qualification for protection.

(2) Copyright shall also subsist in every work which is eligible for copyright and which—

- (a) being a literary, musical or artistic work or film or sound recording is first published in Malaysia;
- (b) being a work of architecture is erected in Malaysia or being any other artistic work is incorporated in a building located in Malaysia;
- (c) being a broadcast is transmitted from Malaysia.

(3) Notwithstanding subsections (1) and (2), copyright shall subsist, subject to this Act, in every work eligible for copyright if the work is made in Malaysia.

11. (1) Copyright shall subsist in every work which is eligible for copyright and which is made by or under the direction or control of the Government and such Government organizations or international bodies as the Minister may by order prescribe.

Copyright in works of Government, Government organizations and international bodies.

(2) Section 10 shall not be taken to confer copyright on works to which this section applies.



Adminis-  
tration of  
Government  
copyright.

12. Where the copyright in any work is vested in the Government, the Ministry or Department concerned with the copyright shall be responsible for the administration and control of that copyright on behalf of the Government:

Provided that the Ministry or Department concerned may authorize the Director of National Archives to administer and control that copyright on behalf of the Government.

PART III

NATURE AND DURATION OF COPYRIGHT

Nature of  
copyright  
in literary,  
musical or  
artistic  
works,  
films and  
sound  
recordings.

13. (1) Copyright in a literary, musical or artistic work, a film, or a sound recording shall be the exclusive right to control in Malaysia—

- (a) the reproduction in any material form;
- (b) ~~the communication to the public;~~ <sup>subs. by AA 775</sup>
- (c) the broadcasting;
- (d) the communication by cable; and
- (e) ~~the distribution to the public,~~ <sup>subs. by AA 775</sup>

of the whole work or a substantial part thereof, either in its original or derivative form/.

d/AA775

Provided that in respect of sound recording, the rights mentioned in (b), (c) and (d) shall not be exercised without the consent of the author of the musical work.

(2) Notwithstanding subsection (1), the right of control under that subsection does not include the right to control—

- (a) the doing of any of the acts referred to in subsection (1) by way of fair dealing for purposes of non-profit research, private study, criticism or the reporting of current events, subject to the condition that if such use is public, it is accompanied by an

h, review  
AA 775

acknowledgement of the title of the work and its authorship, except where the work is ~~incidentally included in a broadcast;~~

AA 775

- (b) the doing of any of the acts referred to in subsection (1) by way of parody, pastiche or caricature;
- (c) the inclusion in a film or broadcast of any artistic work situated in a place where it can be viewed by the public;
- (d) the reproduction and distribution of copies of any artistic work permanently situated in a place where it can be viewed by the public;
- (e) the incidental inclusion of an artistic work in a film or broadcast; Subs. by AA 775
- (f) the inclusion of a work in a broadcast, ~~communication to the public~~, collection of literary or musical works, sound recording or film, if such inclusion is made by way of illustration for teaching purposes and is compatible with fair practice; \* performance, showing or playing to the public  
AA 775

Provided that mention is made of the source and of the name of the author which appears on the work used;

- (ff) ~~---~~ ← AA 775
- (g) the recording made in schools, universities or educational institutions of a work included in a broadcast intended for such schools, universities or educational institutions; ← AA 775
- (gg) ~~(555)---~~
- (h) the reading or recitation in public or in a broadcast by one person of any reasonable extract from a published literary work if accompanied by sufficient acknowledgement;
- (i) any use made of a work by or under the direction or control of the Government, by the National Archives or any State Archives, by the National Library, or any State library, or by such public libraries and educational, scientific or professional institutions as the

Minister may by order prescribe, where such use is in the public interest and is compatible with fair practice and the provisions of any regulations, and—

- (i) no profit is derived therefrom; and
  - (ii) no admission fee is charged for the ~~communication~~, if any, to the public of the work thus used;
- performance showing or playing*  
AA 775
- (j) the reproduction of any work by or under the direction or control of a broadcasting service wholly-owned by the Government where such reproduction or any copies thereof are intended exclusively for a lawful broadcasting and are destroyed before the end of the period of six calendar months immediately following the making of the reproduction or such longer period as may be agreed between the broadcasting service and the owner of the relevant part of the copyright in the work:

Provided that any reproduction of a work made under this paragraph may, if it is of exceptional documentary character, be preserved in the archives of the broadcasting service which are hereby designated official archives for the purpose, but subject to this Act, shall not be used for broadcasting or for any other purpose without the consent of the owner of the relevant part of the copyright in the work;

*Subs. by AA 775* (k) the communication to the public of a work, in a place where no admission fee is charged in respect of such communication, by a club or institution for charitable or educational purpose only, whose aim is not profit making;

*Subs. by AA 775* (l) any use made of a work for the purpose of any judicial proceedings or of any report of any such proceedings, or for the purpose of the giving of professional advice by a legal practitioner;



(m) the making of quotations from a published work if they are compatible with fair practice and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries:

Provided that mention is made of the source and of the name of the author which appears on the work thus used;

(n) the reproduction by the press, the broadcasting or the ~~communication~~ to the public of articles published in newspapers or periodicals on current topics, if such reproduction, broadcasting or ~~communication~~ has not been expressly reserved:

showing  
AA 775

Provided that the source is clearly indicated; and

(o) the reproduction by the press, the broadcasting or the ~~communication~~ to the public of lectures, addresses and other works of the

performance,  
showing or playing  
AA 775

(3) (3) For the purposes of subsection (2) (l), "a legislative body" means the Parliament of Malaysia or, in relation to a State, the authority having power under the Constitution of that State to make laws for the State, as the case may be.

AA 775

14. Copyright in a work of architecture shall include the exclusive right to control the erection of any building which reproduces the whole or a substantial part of the work either in its original form or in any form recognizably derived from the original:

AA 775

Nature of  
copyright in  
works of  
architecture.

Provided that the copyright in any such work shall not include the right to control the reconstruction or rehabilitation in the same style as the original, of a building to which that copyright relates.

15. (1) Copyright in a broadcast shall be the exclusive right to control in Malaysia the recording, the reproduction, and the rebroadcasting, of the whole or a substantial part of the broadcast, and the ~~communication~~ to the public in a place where an admission fee is

Nature of  
copyright in  
broadcasts.

performance,  
showing or playing  
AA 775

charged of the whole or a substantial part of a television broadcast either in its original form or in any way recognizably derived from the original.

(69), (77),  
AA 775

(2) Notwithstanding subsection (1), paragraphs (a), (g), (h) and (o) of subsection (2) of section 13 shall also apply to the copyright in a broadcast.

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

Broad-  
casting of  
works  
incorporated  
in films.

16. (1) Where the owner of the copyright in any literary, musical or artistic work authorizes a person to incorporate the work in a film and a broadcasting service broadcasts the film in the absence of any express agreement to the contrary between such owner and person, it shall be deemed that the owner of the copyright authorized the broadcast.

(2) Notwithstanding subsection (1), where a broadcasting service broadcasts a film in which a literary, musical or artistic work is incorporated, the owner of the right to broadcast the literary, musical or artistic work shall be entitled to receive fair compensation from the broadcasting service.

Duration of  
copyright  
in literary,  
musical or  
artistic works  
(other than  
photo-  
graphs).

17. (1) Except as otherwise provided in this Act, copyright in any literary, musical or artistic work (other than a photograph) shall subsist during the life of the author and fifty years after his death.

(2) Where a literary, musical or artistic work (other than a photograph) had not been published before the death of the author, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work was first published.

(3) Where a literary, musical or artistic work (other than a photograph) is published anonymously or under a pseudonym, copyright shall subsist until fifty years

from the beginning of the calendar year next following the year in which the work was first published:

Provided that in the event of the identity of the author becoming known, the duration of copyright shall be calculated in accordance with subsection (1).

(4) In this section, a reference to "author" shall, in the case of a work of joint authorship, be construed as a reference to the author who dies last.

18. Copyright in a published edition shall subsist until fifty years from the beginning of the calendar year next following the year in which the edition was first published.

Duration of copyright in published editions.

19. Copyright in a sound recording shall subsist until fifty years from the beginning of the calendar year next following the year in which the recording was first published.

Duration of copyright in sound recordings.

20. Copyright in a broadcast shall subsist until fifty years from the beginning of the calendar year next following the year in which the broadcast was first made.

Duration of copyright in broadcasts.

21. Copyright in a photograph shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph was first published.

Duration of copyright in photographs.

22. Copyright in a film shall subsist until fifty years from the beginning of the calendar year next following the year in which the film was first published.

Duration of copyright in films.

23. Copyright in works of the Government, Government organizations and international bodies shall subsist until fifty years from the beginning of the calendar year next following the year in which the work was first published.

Duration of copyright in works of Government, Government organizations and international bodies.

d/AA775  
Government  
use of  
copyright.

24. (1) Notwithstanding anything contained in this Act, the copyright in any work which is eligible for copyright is not infringed by—

(a) the use; or

(b) the reproduction or adaptation in any form, of any work by or on behalf of the Government.

(2) The Government shall pay to the owner of the copyright adequate compensation for the use of the work.

Moral  
rights.

25. (1) For the purposes of this section, the word "name" includes initials or monograms.

(2) Subject to this section, where copyright subsists in a work, no person may, without the consent of the author, or, after the author's death, of his personal representative, do or authorize the doing of any of the following acts:

(a) the presentation of the work, by any means whatsoever, under a name other than that of the author; and

(b) the presentation of the work by any means whatsoever, in a modified form if the modification—

(i) significantly alters the work; and

(ii) is such that it might reasonably be regarded as adversely affecting the author's honour or reputation.

(3) Where a person is authorized, whether by virtue of an assignment, a licence or otherwise, to publish, reproduce, perform in public, broadcast or communicate by cable a work, that person may make modifications to the work if it would be reasonable to expect that the authorized publication, reproduction, public performance, broadcast or communication by

cable, as the case may be, could not take place without the modifications; but nothing in this subsection shall authorize a modification to a work which would constitute a contravention of subsection (2).

(4) The author or, after his death, his personal representative, may exercise the rights conferred by this section notwithstanding that the copyright in the work is not at the time of the act complained of, vested in the author or personal representative, as the case may be.

(5) Any contravention or threatened contravention of this section in respect of a work shall be actionable at the suit of the author of the work or, if he is dead, at the suit of his personal representative, as a breach of statutory duty.

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

(7) Where in an action brought under this section a contravention of the restrictions imposed by this section is proved or admitted, the court may order the offender to publish such correction in such manner as the court may direct.

(8) 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; but 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.

#### PART IV

#### OWNERSHIP AND ASSIGNMENT OF COPYRIGHT

26. (1) Copyright conferred by section 10 shall vest initially in the author.

First  
ownership  
of  
copyright.



(2) Notwithstanding subsection (6) of section 27, where a work—

- (a) is commissioned by a person who is not the author's employer under a contract of service or apprenticeship; or
- (b) not having been so commissioned, is made in the course of the author's employment,

the copyright shall be deemed to be transferred to the person who commissioned the work or the author's employer, subject to any agreement between the parties excluding or limiting such transfer.

(3) Copyright conferred by section 11 shall vest initially in the Government, Government organization or international body and not in the author.

(4) Subject to subsection (3)—

- (a) the name on a work purporting to be the name of its author shall be considered as such, unless the contrary is proved;
- (b) in the case of an anonymous or pseudonymous work, the publisher whose name is indicated in the work as such shall be deemed to be, unless the contrary is proved, the legal representative of the anonymous or pseudonymous author and shall be entitled to exercise and protect the rights belonging to the author under this Act;
- (c) in the case of unpublished work where the identity of the author is unknown, but where there is every reason to presume that he is a citizen of Malaysia, the copyright conferred by this Act shall be deemed to vest in the Minister charged with the responsibility for culture.

(5) Paragraphs (b) and (c) of subsection (4) shall cease to apply when the identity of the author becomes known.

Assignment,  
licences  
and testa-  
mentary dis-  
position.

27. (1) Subject to this section, copyright shall be transferable by assignment, testamentary disposition, or by operation of law, as movable property.

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

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

(4) An assignment or licence granted by one copyright owner shall have effect as if the assignment or licence is also granted by his co-owner or co-owners, and subject to any agreement between the co-owners, fees received by any of the owners shall be divided equally between all the co-owners.

(5) For the purposes of this section, persons shall be deemed to be co-owners if they share a joint interest in the whole or any part of a copyright.

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

(7) Where under a testamentary disposition, whether specific or general, a person is entitled beneficially or otherwise, to the manuscript of a literary or musical work, or to an artistic work, and the work has not been published before the death of the testator, the testamentary disposition 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.

## PART V

### COPYRIGHT TRIBUNAL

28. There shall be established a tribunal to be known as the Copyright Tribunal.

Establishment of  
Copyright  
Tribunal.

Appointment  
of Chairman  
and members  
of Tribunal.

**29.** (1) The Minister shall appoint a suitable person to be the Chairman of the Tribunal and not more than twenty other suitable persons as members of the Tribunal.

(2) The Chairman and members of the Tribunal shall hold office for a period not exceeding three years, after which they shall be eligible to be reappointed.

(3) The Minister shall determine the remuneration and other terms and conditions of the appointment of the Chairman and members of the Tribunal.

(4) The Minister may declare the office of any member of the Tribunal vacant on the ground that he is found to be unfit to continue in office or unable to perform the duties thereof.

(5) The Chairman or any member of the Tribunal may at any time resign from his office by giving notice in writing to the Minister.

(6) The Chairman and members of the Tribunal shall be deemed to be public servants within the meaning of the Penal Code.

*F.M.S.  
Cap. 45.*

Proceedings  
before the  
Tribunal.

**30.** (1) Every proceedings before the Tribunal shall be heard and disposed of by the Chairman and three other members selected by the Chairman from among the members appointed under section 29.

(2) No member of the Tribunal shall take part in any proceedings before the Tribunal if he has a pecuniary interest in any matter which is to be determined by the Tribunal.

(3) Where the Chairman has been disqualified under subsection (2), the Minister shall appoint another member of the Tribunal to act as Chairman for the purposes of that proceedings.

(4) A person is deemed to have a pecuniary interest if he, his partner, employer or any member of his family or if a body whether statutory or not of which he is a member has a pecuniary interest in any matter which is to be determined by the Tribunal.

31. (1) Any person may apply to the Tribunal for a licence to produce and publish in the national language a translation of a literary work written in any other language.

Licence to produce and publish translation.

(2) The Tribunal after holding such inquiry as it thinks necessary may, subject to this section, grant to the applicant a licence (not being an exclusive licence) to produce and publish a translation of the work in the national language, on condition that the applicant shall pay to the owner of the right of translation in the work in respect of copies sold to the public, royalties at a rate to be determined by the Tribunal in the prescribed manner.

(3) A licence may be granted on an application made under subsection (1) in respect of a work only where—

(a) a translation of the work in the national language has not been published by the owner of the copyright (or by any person authorized by him) within one year after the first publication of the work or, if such translation has been so published, it is out of print;

(b) (i) the applicant has requested and been denied authorization by the owner of the right to produce and publish the translation; or

(ii) the applicant, after due diligence on his part, is unable to find the owner;

(c) the applicant, if the nationality of the owner of the right of translation is known, has sent a copy of his request for the translation to the diplomatic or consular representative of the state of which that owner is a national, or to the organization which may have been designated by the government of that state;

(d) the Tribunal is satisfied that—

(i) the applicant is able to produce and publish a correct translation of the work and possesses the means to pay to the

- owner of the right of translation the royalties payable under this section; and
- (ii) the applicant undertakes to have the original title and the name of the author of the work printed on all copies of the published translation;
  - (e) the author of the work has not withdrawn it from circulation;
  - (f) an opportunity of being heard is first given, wherever practicable, to the owner of the right of translation in the work;
  - (g) a further period of nine months has elapsed from the fulfilment of the formalities mentioned in paragraphs (b) and (c) and during this period no translation in the national language has been published by the owner of the right of translation or with his authorization; and
  - (h) the translation is for the purpose of teaching, scholarship or research.

(4) The licence granted under this section shall not be transferable and shall not extend to the export of copies:

Provided that the sending of copies to another country by the Government or any Government organization shall not constitute export if all of the following conditions are met:

- (a) the recipients are individuals who are nationals of Malaysia or organizations grouping such individuals;
- (b) the copies are to be used only for the purpose of teaching, scholarship or research;
- (c) the sending of the copies and their subsequent distribution to recipients is without any commercial purpose; and
- (d) the country to which the copies have been sent has agreed with Malaysia to allow the receipt, or distribution, or both.

(5) The licence shall be valid only for publication of the translation in Malaysia and all copies published under the licence shall bear a notice in the national language stating that the copies are available for distribution only in Malaysia.

(6) Any licence granted under this section shall terminate if a translation in the national language and with substantially the same content as that for which a licence has been granted has been published by the owner of the right of translation or with his authorization at a price reasonably related to that charged in Malaysia for comparable works:

Provided that any copies already made before the licence terminates may, however, continue to be distributed until their stock is exhausted.

(7) If the work to be translated consists mainly of illustrations, no licence under this section shall be granted.

32. Any person aggrieved by the decision of the Tribunal may appeal within thirty days of such decision to the High Court.

Appeal from  
decision of  
the Tribunal.

33. (1) The Tribunal may request for such information as it may deem necessary for the purpose of exercising any of its powers and functions under this Act and any subsidiary legislation made thereunder.

Tribunal  
may request  
for infor-  
mation.

(2) Any person who refuses to comply with such request by the Tribunal shall be guilty of an offence under this Act.

34. No action or other legal proceedings shall lie against any member of the Tribunal for anything done or omitted to be done in good faith in connection with the exercise of the powers and functions of the Tribunal under this Act.

No action  
to lie  
against  
Tribunal.

Regulations  
relating to  
Tribunal.

35. The Minister may make regulations in respect of the Tribunal and in particular and without prejudice to the generality of the foregoing, in respect of the following matters:

- (a) prescribing the manner in which any matter may be referred to the Tribunal;
- (b) prescribing the procedure to be adopted by the Tribunal in dealing with any matter referred to it under this Act and the records to be kept by the Tribunal;
- (c) prescribing the manner in which the Tribunal shall be convened and the place where the Tribunal shall hold its sittings;
- (d) prescribing a scale of costs and fees payable in respect of any inquiry or proceedings before the Tribunal; and
- (e) generally for the better carrying out of the functions assigned to the Tribunal by this Act.

#### PART VI

##### REMEDIES FOR INFRINGEMENTS AND OFFENCES

Infringe-  
ments.

36. (1) Copyright is infringed by any person who does, or causes any other person to do, without the licence of the owner of the copyright, an act the doing of which is controlled by copyright under this Act.

Subs. by AA 775

(2) Copyright is also infringed by any person who, without the consent or licence of the owner of the copyright, imports an article into Malaysia for the purpose of—

- (a) selling, letting for hire, or by way of trade, offering or exposing for sale or hire, the article;
- (b) distributing the article—
  - (i) for the purpose of trade; or

- (ii) for any other purpose to an extent that it will affect prejudicially the owner of the copyright; or
- (c) by way of trade, exhibiting the article in public,

unless he satisfies the court that he did not know or had no reasonable grounds of knowing that the making of the article would, if the article had been made in Malaysia by the importer, have constituted an infringement of the copyright.

37. (1) Subject to 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 are available in any corresponding proceedings in respect of infringement of other proprietary rights.

Action by owner of copyright and relief.

(2) 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.

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



(4) For the purposes of this section and section 38—

(a) “action” includes a counter-claim, and reference to the plaintiff and to the defendant in an action shall be construed accordingly; and

(b) “court” means the appropriate High Court in Malaysia.

(5) For the purposes of this section, owner of the copyright means the first owner or an assignee, as the case may be, of the relevant part of the copyright.

Proceedings  
in case of  
copyright  
subject to  
exclusive  
licence.

**38.** (1) 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 this section, 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 37 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.

(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 37, 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: but 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 have 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) and the owner of the copyright and the exclusive licensee are not plaintiffs in the action, the court, in assessing damages in respect of any 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 awarded to the other party under section 37 in respect of that infringement, or, as the case may require, any right of action exercisable to the other party under that section in respect thereof.

(6) Where an action, in so far as it is brought under section 37, 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 section (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 the apportionment.

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

(a) no judgement or order for the payment of damages in respect of an infringement of copyright shall be given or made under section 37, if a final judgement 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 judgement or order for an account of profit in respect of an infringement of copyright shall be given or made under that section, if a final judgement 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), 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) For the purposes of this section, the expression—

“exclusive licence” means a licence signed by or on behalf of an owner or a prospective owner of copyright authorizing the licensee to the exclusion of all other persons, 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;

“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 or their application to the doing, at the place and time authorized by the licence, of the acts so authorized;

“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.

39. (1) The owner of copyright in any work may give notice in writing to the Minister—

Restriction on importation of infringing copies.

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

(b) that he requests the Minister, 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 such number of years as may be prescribed by the Minister under subsection (4) and shall, in any case, extend beyond the end of the period for which the copyright is to subsist.

not AA 775

39. (2) This section shall apply to any copy of a work made outside Malaysia the making of which was carried out without the consent or licence of the owner of the copyright in the work.  
section such copies shall be treated as infringing copies"

AA 775

AA 775

39. (3) Where a notice has been given under this section in respect of a work and has not been withdrawn, the importation of any infringing copies into Malaysia for the duration of the period specified in the notice shall be prohibited:

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

AA 775

AA 775

(4) The Minister may make regulations prescribing the form in which notices are to be given under this section and requiring a person giving such notice, either at the time of giving the notice or at the time when the infringing copies are imported, or at both those times, to furnish such evidence and to comply with such other conditions, if any, as may be specified in the regulations.

(5) Without prejudice to the generality of subsection (4), regulations made under that subsection may include provisions for requiring a person who has given a notice under subsection (1)—

L.P.U. 18227/03

- (a) to pay such fees in respect of the notice as may be prescribed by the regulations; ~~and~~
- (b) to give to the Controller such security as may be prescribed by the regulations in respect of any liability or expenses which he may incur in consequence of the detention at any time within the period specified in the notice of any infringing copies 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 Controller indemnified against any such liability or expenses referred to in paragraph (b).

(6) Any Assistant Controller, police officer not below the rank of Inspector or any officer of Customs may search for and seize any infringing copies which are prohibited ~~under~~ subsection (3).

from being imported  
into Malaysia  
AA TTS

(7) Whenever any infringing copies are seized under this section, the seizing officer shall forthwith give notice in writing of such seizure and the grounds thereof to the owner of the infringing copies if known, either by delivering such notice to him personally or by post at his residence, if known:

Provided that such notice shall not be required to be given where such seizure is made on the person, or in the presence of the offender or the owner or his agent, or in the case of a vessel or aircraft, in the presence of the master or pilot, as the case may be.

(8) Infringing copies shall be liable to forfeiture as if they were prohibited goods under the law relating to Customs.

✓  
40. (1) Subject to subsection (2), the copyright in a literary work in the form of a computer program is not infringed by the making of a reproduction of the work or of a computer program being an adaptation of the work, if—

Back-up  
copy of  
computer  
program.

- (a) the reproduction is made by, or on behalf of, the owner of the copy (in this section referred to as “the original copy”) from which the reproduction is made; and
- (b) the reproduction is made for the purpose only of being used, by or on behalf of the owner of the original copy, in lieu of the original copy in the event that the original copy is lost, destroyed or rendered unusable.

(2) Subsection (1) does not apply to the making of a reproduction of a computer program, or of an adaptation of a computer program—

- (a) from an infringing copy of the computer program; or
- (b) contrary to an express direction by or on behalf of the owner of the copyright in the computer program given to the owner of the original copy not later than the time when the owner of the original copy acquired the original copy.

(3) For the purposes of this section—

- (a) a reference to a copy of a computer program or of an adaptation of a computer program is a reference to any article in which the computer program or adaptation is reproduced in a material form; and
- (b) a reference to an express direction, in relation to a copy of a computer program, or of an adaptation of a computer program, includes a reference to a clearly legible direction printed on the copy or on a package in which the copy is supplied.

Offences.

41. (1) Any person who during the subsistence of copyright in a work—

- (a) makes for sale or hire any infringing copy;
- (b) sells, lets for hire or by way of trade, exposes or offers for sale or hire any infringing copy;
- (c) distributes infringing copies;
- (d) possesses, otherwise than for his private and domestic use, any infringing copy;
- (e) by way of trade, exhibits in public any infringing copy;
- (f) imports into Malaysia, otherwise than for his private and domestic use any copy which if it were made in Malaysia would be an infringing copy; or
- (g) makes or has in his possession any contrivance used or intended to be used for the purposes of making infringing copies,

Subs by AA 775

shall, unless he is able to prove that he had acted in good faith and had no reasonable grounds for supposing that copyright would or might thereby be infringed, be guilty of an offence and shall on conviction be liable—

- (i) in the case of an offence under paragraphs (a) to (f), to a fine ~~not exceeding ten thousand ringgit~~ for each infringing copy, or to imprisonment for a term not exceeding five years or to both and for any subsequent offence, to a fine ~~not exceeding twenty thousand ringgit~~ for each infringing copy or to imprisonment for a term not exceeding ten years or to both; and
- (ii) in the case of an offence under paragraph (g), to a fine ~~not exceeding twenty thousand ringgit~~ for each contrivance in respect of which the offence was committed or to imprisonment for a term not exceeding ten years or to both and for any subsequent offence to a fine ~~not~~

Sub AA 1195

Sub AA 1195

~~exceeding forty thousand ringgit~~ for each contrivance in respect of which the offence was committed or to imprisonment for a term not exceeding twenty years or to both.

(2) For the purposes of paragraphs (a) to (f) of subsection (1), any person who has in his possession, custody or control three or more infringing copies of a work in the same form shall, unless the contrary is proved, be presumed to be in possession of or to import such copies otherwise than for private or domestic use.

(3) Any person who causes a literary or musical work to be performed in public shall be guilty of an offence under this subsection unless he is able to prove that he had acted in good faith and had no reasonable grounds for supposing that copyright would or might thereby be infringed.

(4) Where an offence under this section is committed by a body corporate or by a person who is a partner in a firm, every director, secretary or manager of the body corporate or, as the case may be, every other partner in the firm shall be deemed to be guilty of the offence unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of the offence.

42. (1) An affidavit or statutory declaration made before any person having authority to administer oath by any person claiming to be the owner of the copyright or by his agent in any of the works eligible for copyright under this Act stating that—

Affidavit  
admissible  
in evidence.

- (a) at the time specified therein copyright subsisted in such work;
- (b) he is the owner of the copyright; and
- (c) a copy of the work annexed thereto is the true copy thereof,

shall be admissible in evidence in any proceedings under this Act and shall be *prima facie* proof of the facts contained therein.



(2) Any person who acts as an agent for the purposes of subsection (1) shall be required to produce such authorization in writing.

(3) If the ownership of the copyright is claimed by a company or any other body of persons, the affidavit or statutory declaration shall be made by a responsible officer of the company or body of persons.

Penalty. 43. Any person who is guilty of an offence under this Act or any regulations made thereunder for which no special penalty is provided, shall on conviction be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

PART VII  
ENFORCEMENT

Entry by  
warrant or  
otherwise.

Vehicle,  
AA 775

44. (1) In every case where information is given on oath to any magistrate that there is reasonable cause for suspecting that there is in any house or premises any infringing copy or any contrivance used or intended to be used for making infringing copies or capable of being used for the purpose of making infringing copies, or any other article, book or document by means of or in relation to which any offence under section 41 has been committed, he shall issue a warrant under his hand by virtue of which any Assistant Controller or police officer not below the rank of Inspector named or referred to in the warrant may enter the house or premises at any reasonable time by day or night and search for and seize any such copy, contrivance, article, book or document:

Vehicle,  
AA 775

Provided that if an Assistant Controller or a police officer not below the rank of Inspector is satisfied upon information received that he has reasonable grounds for believing that by reason of delay in obtaining a search warrant, any copy, contrivance, article, book or document used to commit or to be used to commit an offence under this Act is likely to be removed or

destroyed, he may enter such house or premises without a warrant and seize any such copy, contrivance, article, book or document from therein.

Vehicle, AA TTS

(1A)---

← AA TTS

(2) An Assistant Controller or a police officer not below the rank of Inspector making the search may seize any infringing copy, contrivance used or intended to be used for making infringing copies or capable of being used for the purpose of making infringing copies, or any other article, book or document and if any such copy, contrivance, article, book or document is seized, he shall produce the same before the magistrate, and upon such production the magistrate shall direct the same to be kept in the custody of the Controller or the police for the purpose of any investigation or prosecution under this Act.

Subs. by AA TTS

Vehicle, AA TTS

(2)---

← AA TTS

45. Any Assistant Controller or police officer not below the rank of Inspector may in the exercise of his powers under section 44, if it is necessary so to do—

Effecting entry, removal and detention.

- (a) break open any outer or inner door of the dwelling house or any other premises and enter thereinto;
- (b) forcibly enter the place and every part thereof;
- (c) remove by force any obstruction to entry, search, seizure and removal as he is empowered to effect; and
- (d) detain every person found in the place until the place has been searched.

46. (1) The Assistant Controller or police officer not below the rank of Inspector seizing any infringing copy, contrivance, article, book or document under this Part shall prepare a list of the things seized and forthwith deliver a copy signed by him to the occupier, or his agents or servants present in the premises.

List of things seized.

AA TTS

Vehicle, AA TTS

(2) If the premises are unoccupied, the Assistant Controller or police officer not below the rank of Inspector shall wherever possible post a list of the things seized on the premises.

Sealing  
of things.

47. Where it appears to an Assistant Controller or a police officer not below the rank of Inspector that it is not practical to remove from where they are found, any thing or document seized by him in the exercise of his powers under this Act, by reason of their nature, size or amount, he may by any means seal such things or documents in the premises or container in which they are found and it shall be an offence for any person without lawful authority to break, tamper with or damage such seal or remove such things or documents or to attempt to do so.

Obstruction  
to search, etc.

AA 775

48. Any person who—

(a) refuses any Assistant Controller or police officer not below the rank of Inspector access to any place;

(b) assaults, obstructs, hinders or delays any Assistant Controller or police officer not below the rank of Inspector in effecting any entry which he is entitled to effect under this Act, or in the execution of any duty imposed or power conferred by this Act;

(c) refuses to give to any Assistant Controller or police officer not below the rank of Inspector any information relating to an offence or suspected offence under this Act or any other information which may reasonably be required of him and which he has in his knowledge or power to give; or

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Subs. by AA 775  
AA 775 →

~~(d) knowingly gives false information,~~  
(e) ----  
shall be guilty of an offence.

Subs. by AA 775  
Warrant  
admissible  
notwith-  
standing  
defects. etc.

49. A warrant issued under this Act shall be valid and enforceable notwithstanding any defect, mistake or omission therein and any copy, contrivance, article, book or document seized under such warrant or in the application for such warrant shall be admissible in evidence in any proceedings under this Act.

**50.** (1) Any Assistant Controller or police officer not below the rank of Inspector shall have the power to investigate the commission of any offence under this Act or subsidiary legislation made thereunder. Powers of investigation.

(2) Any Assistant Controller or police officer not below the rank of Inspector may, in relation to any investigation in respect of any offence under this Act or subsidiary legislation made thereunder, exercise the special powers in relation to police investigation except that the power to arrest without warrant given by the Criminal Procedure Code in any seizable offence may not be exercised by any Assistant Controller. F.M.S.  
Cap. 6.

**51.** (1) Notwithstanding the provisions of any written law to the contrary, where a person is charged with an offence under this Act any statement, whether the statement amounts to a confession or not or whether it is oral or in writing, made at any time, whether before or after the person is charged and whether in the course of investigations under this Act or not and whether or not wholly or partly in answer to questions, by the person to or in the hearing of an Assistant Controller or a police officer not below the rank of Inspector and whether or not interpreted to him by an Assistant Controller, a police officer not below the rank of Inspector, or any other person concerned or not in the case shall be admissible at his trial in evidence and, if the person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit: Admissibility of statement.

Provided that—

(a) no such statement shall be admissible or used as aforesaid—

(i) if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against such person proceeding from the person in authority and sufficient in the opinion of the court to give a person grounds which

would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him; or

- (ii) in the case of a statement made by the person after his arrest, unless the court is satisfied that he was cautioned in the following words or words to the like effect:

“It is my duty to warn you that you are not obliged to say anything or to answer any question but anything you say, whether in answer to a question or not, may be given in evidence.”; and

- (b) a statement made by any person before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of his not having been cautioned if he is cautioned as soon as possible.

(2) Notwithstanding the provisions of any written law to the contrary, a person accused of an offence to which subsection (1) applies shall not be bound to answer any question relating to the case after he has been cautioned.

Disclosure  
of  
information.

52. Where a person discloses to any other person any information obtained by him in pursuance of this Act, he shall be guilty of an offence, unless the disclosure was made in or for the purposes of the performance of the functions and duties under this Act.

Conduct of  
prosecution  
in court.

53. Any criminal prosecution before the Session Court for an offence under this Act or subsidiary legislation made thereunder may be conducted by an Assistant Controller or a police officer not below the rank of Inspector.

ref Sub-AA-1139  
A

evidence in ...  
P 1130

54. (1) Any article, book, document, copy or contrivance seized pursuant to this Act shall be liable to forfeiture.

Forfeiture of articles. / Vehicle, AA 775

(2) The court trying any person accused of an offence under this Act may at the conclusion of the trial, whether he is convicted or not, order that article, book, document, copy or contrivance seized from that person be destroyed or in the case of infringing copies, be delivered up to the first owner of the copyright in question, his assignee or exclusive licensee, as the case may be.

/ Vehicle, AA 775

(3) Where there is no prosecution with regard to any article, book, document, copy or contrivance seized in exercise of any powers conferred under this Act, the same shall be taken and deemed to be forfeited at the expiration of one calendar month from the date it was seized unless a claim thereto is made before that date in the manner hereinafter set forth.

/ Vehicle, AA 775

(4) Any person asserting that he is the owner of any article, book, document, copy or contrivance seized under this Act and that the same are not liable to forfeiture may personally or by his agent authorized in writing by him give written notice to an Assistant Controller of his claim.

/ Vehicle, AA 775

(5) On receipt of a notice under subsection (4), the Assistant Controller shall refer the notice to the Controller who may, after such enquiry as may be necessary, direct that such article, book, document, copy or contrivance be released or forfeited or refer the matter to the court for decision.

/ Vehicle, AA 775

(6) The court to which the matter is referred shall issue a summons requiring the person asserting that he is the owner of the article, book, document, copy or contrivance and the person from whom they were seized to appear before it and upon his appearance or default to appear, due service of the summons being proved, the court shall proceed to the examination of the matter and on proof that an offence under this Act

/ Vehicle, AA 775

or subsidiary legislation made thereunder has been committed and that such article, book, document, copy or contrivance was the subject matter or was used in the commission of such offence, shall order the same to be forfeited or may, in the absence of such proof, order the release of such article, book, document, copy or contrivance to the person entitled to it.

Vehicle,  
AA 775

(7) Any article, book, document, copy or contrivance forfeited or deemed to be forfeited shall be delivered to the Controller who shall dispose of it in a manner he deems fit or deliver it up to the first owner of copyright in question, his assignee or exclusive licensee, as the case may be.

Vehicle,  
AA 775

licensee

55. (1) Where packages or receptacles containing copies suspected ~~of infringing any copyright~~ or otherwise liable to seizure have been seized, it shall be sufficient only to open and examine one per centum or any five copies, whichever is the lesser, of the contents of each package or receptacle seized.

(2) The court shall presume that the remaining copies contained in the package or receptacle are of the same nature as those copies examined.

56. (1) Except as hereinafter provided, no witness in any civil or criminal proceedings shall be obliged or permitted to disclose the name or address of an informer or the substance and nature of the information received from him or to state any matter which may lead to his discovery.

Protection  
of informers  
from  
discovery.

(2) If any books, documents or papers which are in evidence or are liable to inspection in civil or criminal proceedings whatsoever contain any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

Proportional  
examination  
of articles  
seized to  
be accepted.  
to be  
infringing  
copies  
AA 775

(3) If on the trial for any offence against this Act or any subsidiary legislation made thereunder the court after full enquiry into the case believes the informer unlawfully made in his complaint a ~~practical~~ statement which he knew or believed to be false or did not believe to be true, or if in any other proceedings the court is of the opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit enquiry, and receive full disclosure concerning the informer.

material  
AA 775

57. No action or prosecution shall be brought, instituted or maintained in any court against any Assistant Controller or police officer not below the rank of Inspector for or on account of or in respect of any act ordered or done for the purpose of carrying into effect this Act, and no suit or prosecution shall lie in any court against any other person for or on account of or in respect of any act done or purporting to have been done by him under order, direction or instruction of any Assistant Controller or police officer not below the rank of Inspector given for any such purpose as aforesaid:

Protection  
of Assistant  
Controllers  
and police  
officers.

Provided that the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby.

PART VIII ✓

MISCELLANEOUS

58. (1) Where a dispute arises between any person and a licensing body with respect to—

Disputes  
with  
licensing  
bodies.

(a) the refusal of the licensing body to grant to that person a general licence to which this section applies; or



(b) the terms and conditions on which the licensing body is prepared to grant such a licence,

either that person or the licensing body may refer the dispute to the High Court.

(2) This section applies to a general licence authorizing the licensee—

(a) in the case of literary or musical works to reproduce, ~~communicate in public~~, broadcast, communicate by cable, or distribute to the public the works;

Xperform, show or play in public

AA 775

(b) in the case of any other works to make copies of them, ~~communicate in public~~, broadcast or communicate them by cable, or cause them to be publicly performed.

(3) For the purposes of this section, a licensing body shall be deemed to have refused to grant a general licence to a person if the licensing body has failed, within a reasonable time from the date when that person has made a written request to the licensing body for such a licence, to grant a licence or to state in writing the terms and conditions on which it is prepared to grant the licence.

(4) While an order made by the High Court by way of determination of a dispute referred to it pursuant to subsection (1) remains in force, either party to the dispute may refer the matter back to the High Court for further consideration, but, except with the special leave of the Court—

(a) an order made so as to be in force for not more than two years from the date it took effect may not be referred back to the Court under this subsection;

(b) an order made so as to be in force indefinitely or for more than two years from the date it took effect may not be referred back to the Court before the expiry of twelve months from the date when the order was made.

Subs. by AA 775  
Regulations and extension of application of Act.

59. The Minister may make regulations for the carrying out of the provisions of this Act and in particular and without prejudice to the generality of the foregoing; may make regulations extending the application of this Act in respect of any or all of the works referred to in subsection (1) of section 7—

- (a) to individuals who are citizens of, or permanent residents in;
- (b) to bodies corporate constituted and established in or under the laws of;
- (c) to works, other than broadcasts, first published in;
- (d) to works of architecture erected in, and to other artistic works incorporated in a building located in; and
- (e) to broadcasts transmitted from,

a country which is a party to a treaty or a member of any convention or union to which Malaysia is also a party or a member, as the case may be, and which provides for protection of copyright in works which are protected under this Act.

59A.---

← AA 775

60. (1) Nothing in this Act shall affect any right or privilege of any person, including the Government, under any written law, except in so far as that law is expressly repealed, amended or modified by or is inconsistent with this Act.

Savings.

(2) Nothing in this Act shall affect the rights of the Government of Malaysia, or any person deriving title from the Government to sell, use or otherwise deal with articles forfeited under the laws relating to Customs, including articles so forfeited by virtue of this Act or any written law repealed by this Act.

Repeal.  
Act 10.

61. The Copyright Act 1969 is repealed:

Provided that—

- (a) nothing contained in this Act shall affect any person's liability to be prosecuted or punished for offences committed under the repealed Act before the coming into operation of this Act, or any proceedings brought or sentence imposed before that day in respect of such offence;
- (b) any proceedings, whether civil or criminal, or cause of action pending or existing immediately before the coming into operation of this Act shall be continued or instituted under the repealed law as if this Act had not been made;

*Subs. by AA775* (c) any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act and any legal proceedings or remedy in respect of such right, privilege, obligation or liability shall not be affected and any such legal proceedings or remedy may be instituted, continued or enforced as if this Act had not been made.