

CHAPTER 218
THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

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CHAPTER 218

THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT

An Act to make better provision for protection of copyright and neighboring rights in literary, artistic works and folklore, and for related matters.

[31st December, 1999]

[GN. No. 452 of 1999]

Acts Nos.

7 of 1999

9 of 2019

1 of 2022

5 of 2022

7 of 2023

GN. Nos.

343 of 2021

780 of 2021

PART I

PRELIMINARY PROVISIONS

Short title

1.-(1) This Act may be cited as the Copyright and Neighbouring Rights Act.

(2) [Omitted.]

Objectives

2. In order to promote the creation of literary and artistic works, safeguard expressions of traditional culture and further productive activities in the field of communicating to the public authors' works, expression of folklore, other cultural productions and events of general interests, this Act-

- (a) protects the moral and economic interests of authors relating to the works, by recognising exclusive authors' rights and providing for just and reasonable conditions of lawful use of authors' work and regulated access to them;
- (b) provides for the protection of expressions of folklore by rendering certain uses thereof subject to authorisation and determining offences against lawful interests relating to their integrity; and

- (c) protects lawful interest of performing artists, producers of phonograms and broadcasting organisations relating to their productions, by granting them relevant rights.

Application

3.-(1) This Act shall apply to-

- (a) works of authors who are nationals of, or have their habitual residence in Tanzania;
- (b) works first published in Tanzania, irrespective of the nationality or residence of their authors;
- (c) audio-visual works, the producer of which has his headquarters or habitual residence in Tanzania; and
- (d) works of architecture erected in Tanzania and other 'artistic works' incorporated in a building or other structure located in Tanzania.

(2) In this Act, the expression "the protection of expressions of folklore" applies to expressions of folklore developed and maintained in Tanzania.

(3) Protection of performance under this Act is available where-

- (a) the performer is a national of Tanzania;
- (b) the performance took place on the territory of Tanzania;
- (c) the performance is fixed in a phonogram or in audio-visual form qualifying for protection under subsection (4); or
- (d) the performance, which has not been fixed in a phonogram or in audio-visual form, is embodied in a broadcast qualifying for protection under subsection (5);

(4) Protection of phonograms under this Act is available where-

- (a) the producer is a national of Tanzania;
- (b) the first fixation of the sound was made in Tanzania; or
- (c) the phonogram was first published in Tanzania.

(5) Protection of broadcasts under this Act is available where-

- (a) the headquarters of the organisation is situated in Tanzania; or

- (b) the broadcast was transmitted from a transmitter situated in Tanzania.
- (6) This Act shall further apply to-
 - (a) unpublished works and works first published in a foreign country of authors of foreign nationality and having their residence in a foreign country, provided that, the country where the author has his habitual residence or, in the case of published works, the country of their first publication, grants similar protection to nationals or residents of the country of Tanzania for their unpublished works or to works first published in Tanzania;
 - (b) expression of foreign folklore, provided that, the country of the community from which the expressions have been derived, grants similar protection to expression of folklore developed and maintained in Tanzania; and
 - (c) works, expression of folklore, performances, phonograms and broadcasts which are to be protected in Tanzania by virtue of and in accordance with international conventions to which it is a party.

Interpretation
Acts Nos.
9 of 2019 s. 12
1 of 2022 s. 18
5 of 2022 ss. 22
and 23

4. In this Act, unless the context otherwise requires-

“accessible format copy” means a copy of a work in an alternative manner or form which affords a beneficiary person ease of access to the work feasibly and comfortably, and includes braille, audio, digital format, large font or other appropriate technology;

“an audio-visual work” means work that consists of a series of related images which impart the impression of motion, with or without accompanying sounds, susceptible of being made visible and where accompanied by sounds susceptible of being made audible;

“author” means the natural person who creates the work;

“authorised entity” means an entity that is authorised or recognised by the Copyrights Office of Tanzania to provide education, instructional training, adaptive reading or information access to beneficiary persons on

a non-profit basis, and includes a public institution or non-profit organisation that provides the same services to beneficiary persons as one of its primary activities or institutional obligations;

“broadcasting” means the communication of a work, a performance or a sound recording to the public by wireless transmission, including transmission by satellite;

“beneficiary person” means a person who-

- (a) is blind;
- (b) has a visual impairment or a perceptual or reading disability which cannot be improved to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or disability; or
- (c) is otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading regardless of any other disabilities;

“communication to the public” means the transmission by wire, or without wire, of the images or sounds or both, of a work, a performance, a sound recording or a broadcast, in such a way, that the images or sounds can be perceived or accessed by persons outside the normal circle of a family and its closest social acquaintances at a place distant from the place where the transmission, the images or sounds would not be perceivable or accessible and, further, irrespective of whether the persons can receive or access the images or sound at the same place and time, or at different places and or times individually chosen by them;

“computer” means an electronic or similar device having information processing capabilities;

“computer program” means a set of instructions expressed in words, codes, schemes or in any other form, which is capable when incorporated in a medium that the

computer can read, of causing a computer to perform or achieve a particular task or result;

“court” means the court of competent jurisdiction;

“copies of phonograms” means any article which contains sounds taken directly or indirectly from a phonogram and which embodies all or a substantial part of the sounds fixed in that phonogram;

“copyright” means the sole legal right to print, publish, perform, film or record literary or artistic or musical work;

“collective management” means the exercise of copyright and related rights by organisations acting in the interest and on behalf of the owners of rights;

“collective management organisation” means an organisation or body exercising copyright or related rights on behalf of the owners of rights, whose main object is to negotiate for the collection and distribution of royalties and the granting of licences in respect of copyright works or performer’s rights in return of an administrative fee;

“distribution 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;

“distribution to the public of the original work or a copy of a work or a sound recording” refers to any act by which copies are offered to the general public or any section thereof, mainly through appropriate commercial channels;

“expression of folklore” means production consisting of characteristic elements of the traditional artistic heritage developed and maintained over generations by a community or by individuals reflecting the traditional artistic expectations of their community;

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

“Minister” means the minister responsible for copyright and neighbouring rights;

“neighbouring rights” are the secondary right of copyright which performers are entitled;

“performers” means actors, singers, musicians, dancers and other persons who act, sing, deliver, declaim, play in or otherwise perform literary or artistic works including expressions of folklore, variety and circus artists;

“phonogram” means any exclusively aural fixation of the sounds of a performance or of other sounds, or of a representation of sounds regardless of the method by which the sounds are fixed on the medium in which the sounds are embodied, and it does not include a fixation of sounds and images, such as the sound track of an audio-visual work;

“producer of phonograms” means the person who, or the legal entity which first fixes the sounds of a performance or other sounds;

“public exhibition” means a showing of the original or copy of the work-

- (a) directly;
- (b) by means of a film, television images or otherwise on screen;
- (c) by means of any other device or process; or
- (d) in the case of an audio-visual work, the showing of individual images consequentially, at a place or places where person outside the normal circle of a family and its closest social acquaintances are or can be present, irrespective of whether they are or can be present at the same place and time or at different places and or times, and where the work can be displayed without communication to the public;

“public performance” includes-

- (a) in the case of a work other than an audio-visual work, the recitation, playing, dancing, acting or otherwise performing the work, or the expression of folklore, either directly or by means of any device or process;

- (b) in the case of an audio-visual work, the showing of images in sequence and the making of accompanying audible sound; and
- (c) in the case of a sound recording, making the recording sounds audible, in each case at a place or places where persons outside the normal circles of the family and its closest acquaintances are or can be present, irrespective of whether they are or can be present at the same place and time, or at different places and times or both, and where the performance can be perceived without the need for communication to the public;

“published” refers to a work or a phonogram, tangible copies of which have been made available to the public in a reasonable quantity for sale, rental, public lending or for other transfer of the ownership or the possession of the copies, provided that, in the case of a work, the making available to the public took place with the consent of the author or other owner of copyright, and in the case of a phonogram, with the consent of producer of the phonogram or his successor in title;

“rebroadcasting” means the unchanged broadcasting organisation of the broadcast of another broadcasting organisation;

“reproduction” means the making of one or more copies of a work or of a phonogram in any manner or form, including any sound or visual recording or any permanent or temporary storage of the work or phonogram in electronic form;

“rights management information” is any information which identifies the author, the work, the performer, the performance of the performer, the producer of the sound recording, the broadcast, or the owner of any right under this Act, or information about the terms and conditions of use of the work, the performance, the sound recording or the broadcast, and any numbers or codes that represent information, when any of these items of information is

attached to a copy of work, fixed performance, a sound recording or a fixed broadcast, or appears in connection with the broadcasting, communication to the public or making available to the public of a work, a fixed performance, a sound recording or a broadcast;

“video recording” means the embodiment of interrelated changing images, with or without accompanying sounds, in some enduring material form permitting them to be repeatedly perceived, reproduced or communicated to the public;

“works first published in Tanzania” also means works first published abroad but thereafter published in Tanzania within thirty days; and

“works of joint authorship” means works created by two or more authors in collaboration, in which the individual contributions are indistinguishable from each other.

PART II COPYRIGHT

Works in which
copyright may
subsist

5.-(1) Authors of original literary and artistic works shall be entitled to copyright protection for their works under this Act by the sole fact of the creation of works.

(2) In this section, literary and artistic works shall include in particular-

- (a) books, pamphlets and other writings, including computer programs;
- (b) lectures, addresses, sermons and other works of the same nature;
- (c) dramatic and dramatic musical works;
- (d) musical works (vocal and instrumental), whether or not they include accompanying words;
- (e) choreographic works and pantomimes;
- (f) cinematographic works, and other audio-visual works;
- (g) works of drawing, painting, architecture, sculpture, engraving, lithography and tapestry;

- (h) photographic works including works expressed by processes analogous to photography;
- (i) works of applied art, whether handicraft or produced on an industrial scale; and
- (j) illustrations, maps, plans, sketches and three dimensional works relative to geography, topography, architecture or science.

(3) Works shall be protected irrespective of their form of expression, their quality and the purpose for which they were created.

Derivative works

6.-(1) The following shall be protected as original works-

- (a) translations, adaptations, arrangements and other transformation of literary and artistic works;
- (b) collections of literary and artistic works, such as encyclopaedias and anthologies or collections of expressions of folklore and compilation of data or data bases which, by reason of selection and arrangement of their contents constitute intellectual creation; and
- (c) works inspired by expression of folklore.

(2) The protection of any work referred to in subsection (1) of this section shall be without prejudice to any protection of a pre-existing work or expression of folklore utilised for making of such work.

Subject matter
not protected

7. Notwithstanding the provisions of sections 5 and 6, protection shall not extend to-

- (a) laws and decisions of courts and administrative bodies as well as to official translations thereof;
- (b) news of the day published, broadcast or publicly communicated by any other means; and
- (c) an idea, procedure, method of operation, concept, principle, discovery or mere data, even if expressed, described, explained, illustrated or embodied in a work.

Substance of
copyright

8. Copyright in a literary and artistic work comprises the exclusive economic and moral rights of the author as provided for under sections 9 to 11.

Economic rights
Act No.
9 of 2019 s. 13

9.—(1) Subject to the provisions of sections 12 to 24, the author shall have the exclusive right to carry out or to authorise the following acts in relation to the work—

- (a) reproduction of the work;
- (b) distribution of the work;
- (c) the rental of the original or a copy of an audio-visual work, a work embodied in a sound recording, a computer program, a database, or a musical work in the form of notation, irrespective of the ownership of the original or copy concerned;
- (d) public exhibition of the work;
- (e) translation of the work;
- (f) adaptation of the work;
- (g) public performance of the work;
- (h) broadcasting of the work;
- (i) right to benefit from re-sale;
- (j) other communication to the public of the work; and
- (k) importation of copies of the work.

(2) The right of rental under paragraph (c) of subsection (1) of this section does not apply to the rental of computer programs where the program itself is not the essential object of the rental.

Right of
distribution

10.—(1) The right to authorise distribution provided for in section 9(1)(b), shall cease to exist in respect of the original or a copy of the work which has been sold by the author or other owner of copyright, with his authorisation, on the territory of Tanzania.

(2) Notwithstanding the provisions included in subsection (2) of section 9, the author or any owner of copyright preserves the exclusive rights to authorise the rental of copies of the works after the sale of the copies.

Moral rights

11. The author of a protected work shall have the right-

- (a) to claim authorship of his work, in particular that his authorship be indicated in connection with any of the acts referred to in section 9, except when the work is included by means of photography, sound or visual recording, broadcasting or distribution by cable;
- (b) to object to and to seek relief in connection with any distribution, mutilation or other modification of, and any other derogatory action in relation to, his work, where the action would be or is prejudicial to his honour or reputation.

Free use
Act No.
1 of 2022 s. 19

12. Notwithstanding the provisions of section 9, the following uses of a protected work, either in the original or in translation, shall be permissible without the author's consent and the obligation to pay remuneration for the use of the work-

- (a) in case of any work except computer programs and architectural works, that has been lawfully published-
 - (i) the production, translation, adaptation, arrangement or other transformation of such work exclusively for the user's own personal and private use provided that, the reproduction does not conflict with normal exploitation of the work and does not unreasonably prejudice the legitimate interest of the author;
 - (ii) the inclusion, subject to mention of the source and the name of the author or quotations from the work in another work, provided that, the quotations are compatible with fair practice and their extent does not exceed that justified by the purpose, including quotations for newspaper articles and periodicals in the form of press summaries; and
 - (iii) the utilisation of the work by way of illustration in publications, broadcasts, programs distributed by cable, or sound or visual recordings for teaching, to the extent justified by the purpose or the communication for teaching purposes of the work

broadcast or distributed by cable for the use in schools, education, universities and professional training, provided that, the use is compatible with fair practice and that the source and the name of the author are mentioned in the publication, the broadcast, the programme distributed by cable or the recording;

- (b) the distribution by cable or any work broadcast, where the beneficiaries of the distribution by cable live in one and the same building, or group of buildings none of which is separated from another building by a public street or road, where the cable distributed originated from the same building or group of buildings and the distribution by cable is done without gainful intent;
- (c) in case of any article published in newspaper or periodicals on current economic, political or religious topics, and in the case of any work of the same character broadcast or distributed by cable, the reproduction of the article or work in the press, or the communication of it to the public, unless the said article when broadcast or distributed by cable, was accompanied by express provision prohibiting the use, and provided that, the source of it when used in the said manner is clearly indicated.
- (d) for the purpose of reporting a current event by means of photography, cinematography or communication to the public, the reproduction, to the extent justified by the informatory purpose, of any work that can be seen or heard in the course of the said event;
- (e) the reproduction of works of art and of architecture in an audio-visual or video recording, and the communication to the public of the works reproduced, where the said works are permanently located in a place where they can be viewed by the public or are included in the audio-visual work or video recording only by way of background or as incidental to the essential matters represented;

- (f) the reproduction, by photography or sound or video recording, or electronic storage, by public libraries, non-commercial documentation centres, scientific institutions and educational establishments of literary and artistic works which have already been lawfully made available to the public, provided that, reproduction, the number of copies made, and the use thereof are limited to the needs of the regular activities of the entity reproducing the work, and neither conflict with the normal exploitation of the work nor unreasonably prejudice the legitimate interests of the author;
- (g) the reproduction in the press or the communication to the public of-
 - (i) any political speech delivered in public or any speech delivered during legal proceedings; or
 - (ii) any lecture, address, sermon or other work of the same nature delivered in public, provided that, the use is exclusively for the purpose of current information, the author retaining the right to publish a collection of such works;
- (h) the recording by any broadcasting organisation for the purpose of its own broadcasts and by means of its own facilities, in one or several copies, of any work which it is authorised to broadcast, the copies of recording shall be destroyed within six months or any longer period agreed to by the author.
 - (i) where a recording made under paragraph (h) has an exceptional documentary character, a copy of it may be preserved in official archives, without the prejudice to the application of the provisions of this Act;
- (j) the reproduction, by an authorised entity or a beneficiary person, of a published work for visually impaired persons in an accessible format including those available in digital form, museum, archives and libraries; and

- (k) the distribution of a published work in an accessible format by an authorised entity or a beneficiary person, exclusively to visually impaired persons.

Limitations for
accessible format
copies
Act No.
1 of 2022 s. 20

13.—(1) For the purpose of paragraphs (j) and (k) of section 12, an authorised entity may, without the authorisation of the owner of copyright, reproduce an accessible format copy for the benefit of a person with disability, distribute that accessible format copy to a person with a disability by any means, including by non-commercial lending or by digital communication by wire or wireless means, and undertake any intermediate steps for the reproduction or distribution where the following conditions are met:

- (a) the person intending to undertake any activity under this subsection shall have lawful access to the copyright work or a copy of that work;
- (b) the copyright work shall be converted into an accessible format copy, which may include any means necessary to create such accessible format copy but which does not introduce changes other than those needed to make the work accessible to a person with a disability;
- (c) the accessible format copies are distributed exclusively for use by beneficiary persons; and
- (d) the activity under this subsection shall be undertaken on a non-profit basis.

(2) A beneficiary person or a person serving a beneficiary person may reproduce an accessible format copy of a work for the personal use of the beneficiary person or otherwise may assist the beneficiary person to make and use accessible format copies where the beneficiary person has lawful access to that work or copy of that work.

[s. 12A]

Conditions for
import or export
of accessible
format copies
Act No.
1 of 2022 s. 20

14.-(1) A person with a disability or a person that serves persons with disabilities may, without the authorisation of the owner of copyright, export to or import from another country any work of an accessible format copy provided he undertakes such activity on a non-profit basis.

(2) A person who imports works in accessible format for reproduction or distribution shall ensure that the content of the imported work is in conformity with moral, values and culture of Tanzania.

[s. 12B]

Temporary
reproduction

15. Notwithstanding the provisions of section 9, the temporary reproduction of a work shall be permitted where the following conditions are met-

- (a) the reproduction is made in the process of a transmission of the work or an act of making a stored work perceptible;
- (b) it is caused by a person or entity that, by way of authorisation by the owner of copyright or of operation of law, is entitled to make that transmission or making perceptible of the work; and
- (c) it is an accessory to the transmission of making perceptible that occurs during the normal operation of the equipment used and entails the automatic deletion of the copy without enabling the retrieval of the work of any other purpose than those referred to in paragraphs (a) and (b) above.

[s. 13]

Duration of
author's right

16.-(1) Subject to the provisions of subsections (2) to (5), of this section, the economic and moral rights shall be protected during the life of the author and for fifty years after his death.

(2) In case of a work of joint authorship, the economic and moral rights shall be protected during the life of the last surviving author and fifty years after his death.

(3) In case of a work published anonymously or under a pseudonym, the economic and moral rights shall be protected

for fifty years from the date on which the work was either made, first made available to the public or first published, whichever date is the latest, provided that where the author's identity is revealed or is no longer in doubt before the expiration of the said period, the provisions of subsection (1) or subsection (2) shall apply, as the case may be.

(4) In case of audio-visual work, the economic and moral rights shall be protected for fifty years from the date on which the work was either made, first made available to the public or first published, whichever date is the latest.

(5) In case of a work of applied art, the economic and moral rights shall be protected for twenty five years from the making of the work.

(6) A period provided for under the proceeding subsections shall continue until the end of the calendar year in which it would otherwise expire.

[s. 14]

Ownership of copyright

17.-(1) The right in a work protected under this Act shall be owned in the first instance by the author or authors who created the work and, the authors of a work of joint authorship shall be co-owners of the said rights.

(2) In respect of audio-visual work, the original owner of the economic right shall be the co-author of the audio-visual work who, in the absence of proof of the contrary, shall be presumed to be the author of the scenario, the author of the dialogue, composer of the music specifically created for the audio-visual work and the director, provided that, he has exercised actual supervision and made an actual intellectual contribution to the creation of the work, and, the author of pre-existing works included in, or adapted for, the audio-visual in, or adapted for, the audio-visual work shall be assimilated to the co-author of the audio-visual work.

(3) The conclusion of a contract under which the co-author of an individual work undertakes to make contribution to, or under which the authors of pre-existing works authorise their works to be included in, or adapted for, an audio-visual work

shall, unless provided otherwise in the said contracts, imply a presumption of the assignment, to the producer of the audio-visual work, of the economic rights in their contributions, and, the co-authors shall however, maintain their economic rights in their contributions or pre-existing works, respectively, to the extent that those contributions or pre-existing works can be subject of acts covered by their economic rights separately from the audio-visual works.

(4) In case of a work created by an author for any person or body corporate in the course of fulfilment of his or her duties under a contract of service or employment, the rights of the work referred to in section 9 shall, in the absence of contractual provisions to the contrary, be deemed to be assigned to the employer of the author to the extent as may be necessary to its customary activities at the time of the conclusion of the relevant contract of service or employment.

(5) In the absence of proof to the contrary, the author of a work is the person under whose name the work is disclosed and this provision shall be applicable even if the name is a pseudonym, where the pseudonym leaves no doubt as to the identity of the author.

(6) In the case of an anonymous or pseudonymous work, subject to the provisions of subsection (5), the publisher whose name appears on the work shall, in the absence of proof to the contrary, be presumed to represent the author and, in this capacity, shall be entitled to exercise and enforce the moral and economic rights of the author, and, this presumption shall cease to apply when the author reveals his identity.

(7) The rights referred to in sections 9 to 11 shall be inherited according to the general rules of the law of succession.

[s. 15]

Requirement for
authorisation
Act No.
9 of 2019 s. 14

18. A person who intends to use any right protected pursuant to the provisions of this Act, shall be obliged to seek authorisation from the copyright's holder.

[s. 15A]

Assignment of
author's rights

19.—(1) The rights referred to in section 9 shall be assignable in whole or in part.

(2) An assignment of a right referred to in section 9 shall be in writing signed by the assignee.

(3) An assignment, in whole or in part, of any right referred to in section 9 shall not include or be deemed to include the assignment of any other rights referred to therein.

(4) Notwithstanding the provisions of section 24 the assignment of right in future work shall be void.

(5) The transfer of ownership of the original or of one or several copies of a work shall not imply the assignment of right in the work.

[s. 16]

Licences

20.—(1) The author or other owner of copyright may grant non exclusive or exclusive licences to others to carry out, or to authorise the carrying out of certain specified acts covered by his or its economic rights.

(2) A non exclusive licence shall entitle the licensee to carry out the act concerned concurrently with the author or other owner of copyright and concurrently with any other possible non-exclusive licensees.

(3) An exclusive licence shall entitle the licensee to carry out the act concerned to exclusion of others, including the author or other owner of copyright.

(4) A licence shall be considered to be exclusive where the licensing contract contains words to that effect, or if the obvious intentions of the contracting parties to that effect clearly result from the circumstances and, the licensee shall have *locus standi* to sue in his own name for an infringement of any exclusive right conferred on him.

(5) Failure to mention the scope or ways and means of carrying out the acts for which a licence is granted shall be deemed to limit the licensee to the ways and means that are necessary for the purpose that may be reasonable presumed to be envisaged by the contracting parties when concluding the licensing contract.

(6) The economic right explicitly mentioned in the contract shall be considered part of the licence.

(7) Unless the licensing contract provides for a shorter period, the validity of the licence expires fifteen years after conclusion of the contract or, where this period is shorter, on the expiring of the contract an assignment on the basis of which the assignee has granted the licence.

(8) A grant of exclusive licence, shall be valid only if it is the subject of written contract signed by the contracting parties.

[s. 17]

Transfer of rights **21.** Unless otherwise provided for by legislation, the user shall be entitled to transfer the rights conferred on him under the contract for the use of the work with the consent of the owner of copyright.

[s. 18]

Disproportionate remuneration **22.** Where the owner of copyright has conferred the rights to use the work on conditions the effect of which is a gross disproportion between the remuneration paid to him by the user of the work and the income from the use thereof, the owner of copyright may request an amendment of the contract so as to secure him an equitable share of the income, corresponding to standards generally prevailing in similar cases, the claim may not be waived in advance, it cannot be enforced, however, after the lapse of two years from the time when the owner of copyright received knowledge of the circumstances which give rise to the claim, and the owner of copyright may not claim to have received such a knowledge after more than five years.

[s. 19]

Non-exercise of exclusive rights **23.** Where the user does not exercise an exclusive right conferred on him by the owner of copyright, the latter may revoke the right concerned where the non-exercise thereof was prejudicial to his legitimate interests, and, the right of revocation may be exercised only after the expiration of the delay stipulated in the contract for the beginning of the exercise

of the right conferred and not earlier than two years after the conferral of same, or if the work to be used was supplied subsequently, from the date of its delivery and in each case the owner of copyright has to notify the user on the proposed revocation, granting him a reasonable additional time, suitable for adequately exercising the right transferred, except for cases where the exercise of the right by the user became impossible or he refused it, and, the right of revocation may not be waived in advance.

[s. 20]

Contract of future grant

24. A contract on future grant of rights for the use of works to be created is enforceable, and, thereafter rights not specified in detail but only mentioned in general or by reference to their nature, may be terminated by either party by six months notice after a period of four years from the conclusion of the contract.

[s. 21]

General rules of contracts

25. The general rules of the law of contracts shall apply to other questions relating to contracts for use of authors' works other than uses provided for under this section.

[s. 22]

Contracts for commissioned works

26.-(1) Where a contract has been concluded for the use of a work to be created (commissioned work), the user shall be under the obligation to make a declaration concerning acceptance of the work within two months from the date on which the work was handed over, unless the law otherwise provides, where the user fails to make such a declaration within the time fixed by law, the work shall be deemed to have been accepted.

(2) Within the time open for acceptance of the work, the user shall be entitled to return the same to the author for correction or amendments, the request shall be initiated by him in writing, taking into consideration the purpose for which the creation of the work was agreed upon, and justified requests for correction or amendments can be repeatedly

made to the author, by fixing suitable dates therefore where the author refuses to comply with such a request or the amended work does not qualify for the stipulated purpose either, the user may terminate the contract and shall be obliged to pay in consideration of the work done by the author an appropriate amount less than the remuneration agreed upon for the use of the work.

[s. 23]

PART III

PROTECTION OF EXPRESSION OF FOLKLORE AGAINST ILLICIT EXPLOITATION

Protected
expression of
folklore

27. This Act protects expression of folklore as follows-

- (a) folk tales, folk poetry, riddles;
- (b) folk songs and instrumental folk music;
- (c) folk dances, plays and artistic forms of rituals;
- (d) production of folk art in particular drawings, painting, carvings, sculpture, pottery, terracotta, mosaic, woodwork, metalware, jewellery, baskets, costumes; and
- (e) traditional musical instruments.

[s. 24]

Utilisation subject
to authorisation

28. Subject to the exception provided for in section 29, the following utilisations of the expression of folklore are subject to authorisation by the competent authority when they are made both with gainful intent and outside their traditional or customary context-

- (a) any application, reproduction and distribution of copies of expressions of folklore; or
- (b) communication to the public, including recitation, performance, broadcasting or distribution by cable, of expressions of folklore.

[s. 25]

Exceptions

29. The provisions of section 28 shall not apply in the following cases-

- (a) utilisation for the purposes of education;
- (b) utilisation by way of illustration in an original work of an author or authors, provided that the extent of the utilisation is compatible with fair practice;
- (c) borrowing expressions of folklore for creating an original work of an author or authors inspired by folklore; and
- (d) incidental utilisation of an expression of folklore, including in particular-
 - (i) utilisation of an expression of folklore that can be seen or heard in the course of a current event for the purposes of reporting on the current event by means of photograph, broadcasting or sound or visual recording, provided that the extent of utilisation is justified by the informatory purpose; and
 - (ii) utilisation of objects containing the expression of folklore which are permanently located in a place where they can be viewed by the public, where the utilisation consists of including their image in a photograph, in a film or in a television broadcasting.

[s. 26]

Acknowledgement of source

30. In printed publication, and in connection with any communications to the public, of any identifiable expression of folklore its source shall be indicated in an appropriate manner, by mentioning the community and geographic place from where the expression utilised has been derived and the provisions shall not apply to utilisation referred to in section 29(c) and (d).

[s. 27]

Authorisation **31.**–(1) Application for individual or blanket authorisation of any utilisation or expression of folklore subject to authorisation under this Act shall be made in writing to the competent authority.

(2) Where the competent authority grants authorisation, it may fix the amount of any collection fees corresponding to a tariff approved by the supervisory authority, and the fees collected shall be used for the purpose of promoting or safeguarding national culture.

(3) Appeals against the decisions of the competent authority shall be by the person applying for the authorisation or the representative of the interested community and shall be with the supervisory authority.

[s. 28]

Competent
authorities
Cap. 204

32.–(1) For purposes of this Act, the expression “competent authority” means The National Arts Council of Tanzania established under section 3 of the National Arts Council Act.

(2) For the purpose of this Act, the expression “supervisory authority” means the Minister.

[s. 29]

Interpretation

33.–(1) The provisions of the folklore under this Act shall in no way be interpreted so as to hinder the normal use, maintaining and development of the expressions.

(2) The provisions of this part of the Act shall in no way limit or prejudice any protection applicable to expressions of folklore under other Parts of this Act, or the laws protecting industrial property, or any other law or international treaty to which Tanzania is a party, nor shall it in any way prejudice other forms of protection provided for the safeguard and preservation of folklore.

[s. 30]

PART IV
PROTECTION OF PERFORMERS,
PRODUCERS OF SOUND RECORDINGS
AND BROADCASTING ORGANISATIONS

Acts requiring
authorisation of
performers

34.—(1) Subject to the provisions of section 5 of this Act, a performer shall have the exclusive right to carry out or to authorise any of the following acts—

- (a) the broadcasting or other communication to the public of his performance, except where the broadcasting or the other communication—
 - (i) is made from a fixation of the performance, other than a fixation made under the terms of section 5 of this Act or otherwise made without the authorisation of the performer; or
 - (ii) is a rebroadcasting made or authorised by the organisation initially broadcasting the performance;
- (b) the fixation of his unfixed performance;
- (c) the direct or indirect reproduction of a fixation of his performance, in any manner or form;
- (d) the first making available to the public of a fixation of his performance, or copies thereof, through sale or other transfer of ownership;
- (e) rental to the public or public lending of a fixation of his performance, or copies thereof, irrespective of the ownership of the copy rented or lent; or
- (f) the making available to the public of his fixed performance, by wire or wireless means, in a way that members of the public may access them from a place or at a time individually chosen by them.

(2) Once the performer has authorised the incorporation of his performance in an audio-visual fixation, the provisions of subsection (1) shall have no further application.

(3) Independently of the performer's economic rights, and even after the transfer of those rights, the performer shall, as regards to his live aural performances and performances fixed

in phonograms, have the right to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance, and to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation.

(4) This section shall not be construed to deprive performers of the right to agree by contracts on terms and conditions more favourable for them in respect of their performances.

(5) The rights under this section shall be protected until the end of the fiftieth calendar year following the year in which the performance was fixed in phonogram, or in the absence of a fixation, from the end of the year in which the performance took place.

[s. 31]

Acts requiring
authorisation
of producers of
sound recordings

35.—(1) Subject to the provisions of section 5 of this Act, a producer of a sound recording shall have the exclusive right to carry out or to authorise any of the following acts—

- (a) direct or indirect reproduction of the sound recording, in any manner or form;
- (b) the making available to the public by sale or other transfer of ownership, of the original or copies of the sound recording that have not already been subject to a distribution authorised by the producer;
- (c) rental to the public or public lending of a copy of the sound recording, irrespective of the ownership of the copy rented or lent; or
- (d) the making available to the public of the sound recording, by way of wireless means, in a way that members of the public may access it from a place or at time individually chosen by them.

(2) The rights under subsection (1) of this section shall be protected from the publication of the sound recording until the end of the fiftieth calendar year following the year of publication or, where the sound recording has not been published from the fixation of the sound recording until the end of the fiftieth calendar year, following the year of fixation.

[s. 32]

Equitable remuneration for use of sound recordings

36.—(1) Where a sound recording published for commercial purposes, or a reproduction of the sound recording, is used directly for broadcasting or other communication to the public, or is publicly performed, a single equitable remuneration for the performer or performers and the producer of the sound recording shall be paid by the user to the producer.

(2) Unless otherwise agreed between the performers and the producer, half of the amount received by the producer under subsection (1) shall be paid by the producer to the performer or performers.

(3) The right to an equitable remuneration under this section shall subsist from the date of publication of the sound recording until the end of the fiftieth calendar year following the year of publication or, where the sound recording has not been published, from the date of fixation of the sound recording until the end of the fiftieth calendar year following the year of fixation.

(4) For the purpose of this section, sound recordings that have been made available to the public by wire or wireless means in a way that members of the public may access them from a place and at a time individually chosen by them shall be considered as if they have been published for commercial purposes.

[s. 33]

Acts requiring authorisation of broadcasting organisations

37.—(1) Subject to the provisions of section 5, a broadcasting organisation shall have the exclusive right to carry out or to authorise any of the following acts—

- (a) the rebroadcasting of its broadcast;
- (b) the communication to the public of its broadcast;
- (c) the fixation of its broadcast; or
- (d) the reproduction of a fixation of its broadcast.

(2) The rights under this section shall be protected from the moment when the broadcasting takes place until the end of the fiftieth calendar year following the year in which the broadcast takes place.

[s. 34]

Limitations on
protection

38. Sections 34, 35, 36 and 37 shall not apply where the acts referred to in those sections are related to-

- (a) using short excerpts for reporting current events to the extent justified by the purpose of providing current information;
- (b) reproduction solely for scientific research;
- (c) reproduction solely for the purpose of face to face teaching activities, except for performances and phonograms which have been published as teaching or instructional materials; or
- (d) cases where, under Part II of this Act, a work can be used without the authorisation of the author or other owner of copyright.

[s. 35]

PART V SANCTIONS

Civil remedies

39.-(1) A person whose rights under this Act are in imminent danger of being infringed or have been infringed, may institute proceedings in the United Republic for-

- (a) an injunction to prevent the infringement or to prohibit the continuation of the infringement; or
- (b) payment of damages suffered in consequence of the infringement, including any profits enjoyed by the infringing person that are attributable to the infringement, and where the infringement is found to have been prejudicial to the reputation of the person whose rights were infringed, the court may, at its discretion, award exemplary damages.

(2) An object which was made in violation of this Act and any receipts of the person violating it and resulting from such violations, shall be subject to seizure.

[s. 36]

Action for
injunction and
damages

40.—(1) As against a person who infringes a copyright or any other right protected by this Act, the injured party may bring an action in court for injunctive relief requiring the wrongdoer to cease and desist if there is a danger that repetition of the acts of infringement was intentional or the result of negligence:

Provided that, in lieu of damages, the injured party may recover the profits derived by the infringer from the acts of infringement together with a detailed accounting reflecting profits.

(2) Authors, persons having rights in scientific editions, photographers and performers may, where the infringement was intentional or the result of negligence, recover, as justice may require, a monetary indemnity for the injury caused to them even if no pecuniary loss has occurred, and this right is not assignable unless it has been acknowledged by contract or unless legal action asserting the right has previously been commenced.

(3) Rights arising from other legal provisions shall not be affected.

[s. 37]

Right of
destruction and
similar measures

41.—(1) The injured party may require the destruction of copies that have been unlawfully manufactured or unlawfully distributed or which are intended for unlawful distribution.

(2) The injured party may further require that, the equipment such as moulds, plates, engraving stones, blocks, stencils and negatives which were destined exclusively for the unlawful production of copies be rendered unusable, or if this is not practicable, destroyed.

(3) Where the appearance of the copies or the equipment causing the infringement can be modified in some other fashion so that, the work no longer constitutes an infringement of the rights of the injured party, in that case, the injured party may only require that such measures be undertaken as to achieve this effect.

(4) The measures proposed in subsections (1) to (3) of this section shall apply only to copies and equipment which are the result of unlawful making or distribution of the copies, or their heirs, these measures may be executed only after ownership has been legally confirmed.

[s. 38]

Right of delivery **42.** The injured party may require that, the copies and equipment be delivered to him, in whole or in part, for an equitable price which shall not exceed the production cost.

[s. 39]

Responsibility of proprietor of enterprise **43.** Where a right protected under this Act has been infringed by an employee or agent of an enterprise in the course of his duties to the enterprise, the injured party may also assert the rights provided in sections 40 and 41, with the exception of the right to damages, as against the proprietor of such enterprise, and, further claims which may arise from other legal provisions shall not be affected.

[s. 40]

Exceptions **44.** Where, in the event of infringement of a right protected under this Act, the demands of the injured party for any injunction under section 40 for destruction or rendering the work unusable under section 41 or for delivery under section 42 are asserted against a person whose acts of infringement were neither intentional nor negligent, the person may simply indemnify in money to the injured party if execution of the aforesaid demands would produce for him a serious and disproportionate injury and where it may be assumed that the injured party could accept redress in cash, and, the damages payable as aforesaid shall be such an amount as would have constituted an equitable remuneration had the right been granted by contract, payment of damages shall constitute the injured party's consent to a utilisation within customary limits.

[s. 41]

Offences and legal
sanctions
Act No.
9 of 2019 s. 15

45.—(1) Without prejudice to the remedies available under section 39, any person who knowingly violates, or causes to be violated, the rights protected under this Act shall be liable to—

- (a) in case of the first offence in commercial basis, a fine of not less than twenty million shillings or thirty *per centum* of the value of the pirated copyrights material, whichever is higher or to imprisonment for a term of not less than six months but not exceeding three years, or to both; and
- (b) in case of each subsequent offence in commercial basis, a fine of not less than thirty million shillings or fifty *per centum* of the value of the pirated copyright material, whichever is higher or to imprisonment for a term of not less than twelve months but not exceeding five years or to both, in addition, the court may order compensation to the right holder. .

Cap. 172

(2) In addition to the punishment under subsection (1), where the offender is a legal person regulated by Tanzania Communications Regulatory Authority, the person may be subjected to suspension in accordance with Tanzania Communications Regulatory Authority Act.

(3) A person who, without the authorisation of the competent authority referred to in subsection (1) of section 31, of this Act imports or distributes copies of expressions of folklore derived from Tanzania or copies of translations, adaptations, arrangement or other transformations of such expressions of folklore, made abroad without the authorisation of the said authority, is guilty of an offence and liable to a fine not exceeding ten million shillings or imprisonment for a term not exceeding ten years.

(4) A person who wilfully or negligently does not comply with the provisions of section 29 of this Act commits an offence and on conviction, shall be liable to a fine not exceeding three million shillings or imprisonment for a term not exceeding one year.

(5) A person who, without the authorisation of the competent authority referred to in subsection (1) of section 31 of this Act willfully or negligently utilises an expression of folklore in violation of the provisions of section 27 of this Act commits an offence and on conviction, shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years.

(6) A person wilfully deceiving others in respect of the source of artifacts or subject matters of performances or recitations made available to the public by him in any direct or indirect manners, presenting such artifacts or subject matters as expressions folklore of a certain community, from where, in fact, they have not been derived commits an offence and on conviction, shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years.

(7) A person who publicly uses, in any direct or indirect manner expressions of folklore wilfully distorting the same in a way prejudicial to the cultural interests of the community concerned commits an offence and on conviction, shall be liable to a fine of not exceeding five million shillings or to imprisonment for a term not exceeding three years.

(8) A person who gives authorisation on behalf of performers without being a duly appointed representative, or any person who knowingly proceeds under such an unlawful authorisation commits an offence and on conviction, shall be liable to a fine of not exceeding five million shillings or to imprisonment for a term not exceeding three years.

(9) A person omitting the application of the notice of the protection of phonograms prescribed in section 36 to copies of a published phonogram reproduced by him or to the containers of such copies commits an offence and on conviction, shall be liable to a fine not exceeding five million shillings and to imprisonment for a term not exceeding three years.

(10) For any other criminal offence under copyright infringement, on conviction shall be liable to-

- (a) a fine of not more than four million shillings or to imprisonment of up to three years for the first offence; or
- (b) a fine of not more than eight million shillings or to imprisonment of up to two years for each subsequent offence.

[s. 42]

Compounding of
offences
Acts Nos.
9 of 2019 s. 16
5 of 2022 s. 22

46.—(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act, the Copyright Administrator or a person authorised by him in writing may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction, compound such offence and order such person to pay-

- (a) the sum of money together with all reasonable expenses Copyright Office of Tanzania may have incurred in connection with the offence; and
- (b) all fees and charges which would have been due where the action had been authorised under this Act.

(2) Where an offence is compounded in accordance with subsection (1) and criminal proceedings are brought against the offender for the same offence, it shall be a good defence for the offender to prove to the satisfaction of the Court that the offence with which the offender is charged has been compounded under subsection (1).

(3) Where a person fails to comply with the order issued under this section within the prescribed period, the Copyright Administrator-

- (a) shall, in addition to sum ordered, require the person to pay an interest at the rate prescribed in the regulations; and
- (b) may enforce the order in the same manner as a decree of a court for the payment of the amount stated in the notification.

(4) Where an offence is compounded under this section, the payment of sum of money shall not exceed twenty million shillings.

[s. 42A]

Conservatory
and provisional
measures
Cap. 20
Cap. 33

47.—(1) The court having jurisdiction of a civil or criminal action arising under this Act, Criminal Procedure Act or Civil Procedure Code shall have the authority, subject to the relevant provisions of the Act and on terms as it may deem reasonable to—

- (a) grant injunctions to prohibit the committing, or continuation of committing, of infringement of any right protected under this Act; or
- (b) order the impounding of copies of works or sound recordings suspected of being made or imported without the authorisation of the owner of any right protected under this Act, where the making or importation of copies is subject to an authorisation, as well as the impounding of the packaging of, the implements that could be used for the making of, and the documents, accounts or business papers referring to, the copies.

Cap. 33
Cap. 20

(2) The provisions of the Civil Procedure Code and the Criminal Procedure Act dealing with search and seizure shall apply to infringements of rights under this Act.

Cap. 399

(3) The provisions of the Tanzania Revenue Authority Act dealing with suspension of the release of suspected illegal goods shall apply to articles and implements protected under this Act.

(4) For the purpose of this Act subsection (2) of section 173 of the Criminal Procedure Act shall not be applicable.

Cap. 20

[s. 43]

PART VI
MEASURES, REMEDIES AND SANCTIONS
AGAINST ABUSES IN RESPECT OF TECHNICAL
MEANS OF PROTECTION AND RIGHTS
MANAGEMENT INFORMATION

Infringements of
technical means
of protection
and rights
management
information

48.—(1) The following acts shall be considered unlawful and assimilated to infringements of the rights protected under this Act—

- (a) the manufacture or importation for sale or rental of any device or means specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work, a sound recording or a broadcast, or to impair the quality of copies made;
- (b) the manufacture or importation for sale or rental of any device or means that is susceptible to enable or assist the reception of an encrypted program, which is broadcast or otherwise communicated to the public, including by satellite, by those who are not entitled to receive the program;
- (c) the removal or alteration of any electronic rights management information without authority; and
- (d) the distribution, import for distribution, broadcasting, communication to the public or making available to the public, without authority, of works, performances, sound recordings or broadcasts, knowing or having reason to know that electronic rights management information has been removed or altered without authority.

(2) An illicit device and means mentioned in paragraph (a) of subsection (1) and any copy from which rights management information has been removed, or in which information has been altered, shall be assimilated to infringing copies of works, and any illicit act referred to in subsection (1) of this

section shall be treated as an infringement of copyright or neighbouring rights to which the civil remedies and criminal sanctions are applicable.

[s. 44]

Regulations

49. The Minister may make regulations prescribing matters as are required or permitted by this Act to be prescribed or as are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

Administration
of copyright and
neighbouring
rights
Act No.
5 of 2022 ss. 22
and 24

50. There is hereby established an organisation to be known as the Copyright Office of United Republic in this Act referred to as the "Office" which shall-

- (a) be a body corporate having perpetual succession and a common seal;
- (b) under that name be capable of suing and being sued and of purchasing or otherwise acquiring, holding and alienating movable or immovable property; and
- (c) subject to the provisions of this Act be capable of doing or performing all such acts or things as bodies corporate may by law do or perform.

[s. 46]

Functions of
Office
Acts Nos.
9 of 2019 s. 17
5 of 2022 s. 25

51. The functions of the Copyright Office shall be to -

- (a) promote and protect the interest of holders of copyright and neighbouring rights in the administration of copyright;
- (b) maintain registers of works, productions and associations of authors, performers, translators, producers of sound recordings, broadcasters and publishers;
- (c) search for, identify and publish the rights of owners;
- (d) collect and distribute royalties in respect of copyright works or performers rights in areas where collective management organisations do not operate;

- (e) print, publish, issue or circulate any information, report, periodical, books, pamphlet, leaflet or any other material relating to copyright and rights of performers, producers of sound recordings and broadcasters;
- (f) supervise and issue licences to the collective management organisations to administer the rights of their members;
- (g) give assistance in establishing a collecting organisation for any class of copyright owners;
- (h) deal with issues of anti-piracy; and
- (i) advise the Minister on all matters relating to copyright.

[s. 47]

Fees, royalties,
etc.
Act No.
5 of 2022 s. 26

52. For the better performance of its functions, the Office shall, subject to this Act, have power-

- (a) to approve the minimum rates of royalties to be levied in respect of uses to be made of works licensed by it;
- (b) to levy fees upon licensing works and associations;
- (c) to acquire, hire and dispose of property;
- (d) to borrow money whether by way of loan, overdraft or otherwise on the security of its assets;
- (e) to accept and administer any trusts or donations;
- (f) to join regional and international associations having similar objectives and functions;
- (g) to perform other functions as may be assigned to it by the Board; and
- (h) to train and sensitise its members, institutions and other members of the public on copyright matters.

[s. 48]

Imposition of
copyright levy
Acts Nos.
5 of 2022 s. 27
7 of 2023 s. 4

53.—(1) There is imposed a copyright levy at a rate of 1.5 percent to be charged on the value of radio/TV set enabling recording, analogue audio recorders, analogue video recorders, CD/DVD copier, digital jukebox Vinyl, Mini Disc, Compact Disc (CD), Digital Versatile Disk (DVD), SD Memory and MP 3 player.

(2) The Minister shall, upon consultation with the Minister responsible for finance, make regulations prescribing the manner and modality under which the levy shall be collected and accounted for.

[s. 48A]

Funds of Office
Act No.
5 of 2022 s. 22

54. The funds of the Office shall consist of-

- (a) fees payable under the Act;
- (b) grants and bequests; and
- (c) other moneys or assets as may vest in or accrue to the office, including government subsidy whether in the course of its functions or otherwise.

[s. 49]

Office's accounts
and records
Act No.
5 of 2022 s. 22

55.-(1) The Office shall-

- (a) keep proper accounts and other records relating thereto in respect of its funds; and
- (b) publish and furnish to the Board annually, or as often as the Board may direct audited accounts and balance sheets and estimates of income and expenditure for the following financial year.

(2) The accounts shall be examined and audited annually by auditors appointed by the Office and approved by the Board.

(3) The financial year of the Office shall be a period of twelve calendar months beginning on 1st July, every year and ending on 30th June the following year.

[s. 50]

Office's
composition
Act No.
5 of 2022 s. 22

56.-(1) The composition, proceedings and other matters of the Office shall be in accordance with the provisions of the Schedule.

(2) The Minister may in consultation with the relevant Ministry, Department or Institution appoint from among citizens of Tanzania, persons qualified and knowledgeable in matters relating to copyrights and neighbouring rights to be members of the Board of the Office.

(3) The Minister may, by order published in the *Gazette*, amend the Schedule.

[s. 51]

PART VII

COLLECTIVE MANAGEMENT OF COPYRIGHT

Licensing
of collective
management
organisations
Act No.
5 of 2022 s. 28

57.—(1) A collective management organisation shall not operate in Tanzania without a licence issued by the Office.

(2) The Office shall not licence a collective management organisation in respect of the same bundle of rights and category of works if there exists another organisation that has already been licensed under this Act.

(3) A person who operates as a collecting organisation without a licence commits an offence and on conviction, shall be liable to a fine of not less than ten million shillings but not exceeding twenty million shillings.

[s. 52A]

Function of
collective
management
Act No.
5 of 2022 s. 28

58. The functions of the collective management organisation shall be to-

- (a) promote and encourage creativity in the artistic, literary and scientific fields in Tanzania;
- (b) promote and carry out public awareness on copyright and neighbouring rights;
- (c) pay the royalties to its members who are the appropriate beneficiaries;
- (d) charge fees as approved by the Office to the users of copyright and neighbouring rights;
- (e) enter into reciprocal agreements with foreign societies or other bodies of authors or neighbouring rights owners, in collaboration with the relevant authorities, in respect of their members' works;
- (f) foster harmony and understanding between its members with the users of their works for the purpose of protecting their economic rights;

- (g) provide its members or other persons in need of it, with information on all matters relating to copyright and neighbouring rights and to give advice and keep its members informed about their rights and interests;
- (h) act as an agent for its members in relation to their copyright and neighbouring rights interests; and
- (i) do any act necessary in relation to the copyright and neighbouring rights and interests of its members.

[s. 52B]

Conditions
for issuance of
licence
Act No.
5 of 2022 s. 28

59.The Office shall licence a collective management organisation where-

- (a) it is satisfied that the collective management organisation is capable of promoting its members' interests and of discharging its functions and objectives;
- (b) it consists of at least thirty members; and
- (c) the organisation is incorporated under the Companies Act.

[s. 52C]

Submission of
financial year
report to Office
Act No.
5 of 2022 s. 28
Cap. 212

60.-(1) A collective management organisation shall, as soon as reasonably practicable after the end of each financial year, submit to the Office-

- (a) a report of its operations during that year; and
- (b) a copy of its audited accounts in respect of that year.

(2) This section shall apply without prejudice to the obligations of a collective management organisation under the provisions of the Companies Act or any other written law.

[s. 53D]

Immunity
Act No.
5 of 2022 s. 28

61. A matter or thing done by any member of the Board or an employee of the Office shall not, if done *bonafide* in the execution or purported execution of the functions conferred upon that member or employee by this Act, render the member or employee personally liable for that matter or thing.

[s. 54E]

Appeal
Act No.
5 of 2022 s. 28

62.—(1) A person who is aggrieved by any decision or act of the collective management organisation may, within thirty days from the date of the decision or act, appeal to the Office.

(2) A person aggrieved by the act or any decision made by the Office may, within thirty days from the date of the decision, appeal to the Minister.

[s. 54F]

Collective
management
organisation
regulations
Act No.
5 of 2022 s. 28

63. The Minister may, for the purpose of this Part, make regulations prescribing—

- (a) procedure for application, issuance and cancellation of licence; and
- (b) procedure to be complied by collective management organisations in making rules for collection and distribution of royalties.

[s. 54G]

PART VIII TRANSITIONAL PROVISIONS

Repeal
Act No.
61 of 1966

64.—(1) [Repeals the Copyright Act.]

(2) Rights governed by this Act shall not be recognised under common law.

[s. 52]

Transitional
provision

65. The provisions of this Act which apply to works, performances, phonograms and broadcasts existing before the date of the coming into effect of this Act, provided that the term of protection had not expired under the former legislation or under the legislation of the country of origin of the works, performances, phonograms or broadcasts that are to be protected under an international treaty to which Tanzania is party, shall not affect contracts on works, performances, sound recordings and broadcasts concluded before the entering into force of this Act.

[s. 53]

SCHEDULE

*(Made under section 56(1))*CONSTITUTION, PROCEEDINGS AND
OTHER MATTERS OF THE OFFICE¹

Act No.
5 of 2022 s. 22
GN. No.
343 of 2021

1.-(1) Subject to paragraph (3) the Office shall consist of the following Board members appointed by the Minister each of whom representing the following-

- (a) The Office of the Attorney General;
- (b) The Ministry responsible for copyright matters;
- (c) The Ministry responsible for finance and planning (experienced with accounting and auditing);
- (d) The National Arts Council;
- (e) Two accredited stakeholders from Federation or Associations;
- (f) the Tanzania Authors' Association;
- (g) the Tanzania Broadcasting Commission; and
- (h) the Customs Department;

(2) One third of the ex officio members shall be removed from their position after every two years and replaced by the private stake holders.

(3) A member of the Office, not being an ex officio member, shall hold office for three years.

(4) The Minister may appoint other persons not exceeding three in number, as he considers suitably qualified to assist the Office in its work and deliberations and such persons shall not have the right to vote at meetings of the Office.

(5) Upon the appointment to the Office of any member, the Minister shall cause notice of the appointment to be published in the *Gazette* and the notice shall specify the current membership of the society resulting upon such appointment.

(6) Members of the Office shall not, by virtue only of their appointment to the Office, be deemed to be officers in the public service.

2.-(1) The Minister may require a member of the Board to vacate his office if the Minister is satisfied that the member-

- (a) has become insolvent or bankrupt;
- (b) has been absent from three consecutive meetings of the Office, of which he has had notice, without the leave of the Chairman of the Office;
- (c) has been convicted of an offence under this Act;
- (d) has been convicted within Tanzania of a criminal offence, or outside Tanzania of an offence by whatever name called which, if committed within Tanzania, would have been a

¹ Act No. 5 of 2022 s. 22

criminal offence, and sentenced to imprisonment for a term of six months or more without the option of a fine, whether or not the sentence has been suspended, and has not received a free pardon; or

- (e) is mentally or physically incapable of efficiently performing his duties as member of the Office.

(2) The Minister may suspend from office a member of the Board against whom criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment for a term of six months or more without the option of a fine may be imposed.

(3) A member of the Board may resign his office by giving notice in writing addressed to the Minister and from the date of receipt of the notice by the Minister, he shall cease to be a member.

3.-(1) On vacation of office by a member of the Board, the vacancy shall be filled by a person appointed in accordance with paragraph 1 under which the former member was appointed:

Provided that, where the remaining period is less than six months the Minister may decide not to have the vacancy filled until the expiry of the period.

(2) Where any member of the Board is granted leave of absence by the Board, the Board may, where it sees fit, co-opt a person who belongs to the same profession or calling as the member who has been granted leave to fill the vacancy during the absence of the member.

4. The Board may in its discretion at any time and for any length of time invite any person, and the Minister may in the like manner nominate any officer in the public service, to attend any meeting of the Board and take part in the deliberations of the Board, but the person or officer shall not be entitled to vote at that meeting.

5.-(1) The Chairman of the Board shall be appointed by the Minister from amongst persons who are-

- (a) knowledgeable;
- (b) with provable experience in business administration; and
- (c) have experience on copyright and neighbouring rights.

(2) The Board shall elect a Vice-Chairman from amongst its members, and the Vice-chairman shall, subject to subparagraph (3), hold office for the duration of his membership in the Board.

(3) The office of the Vice-Chairman shall become vacant where-

- (a) the holder resigns his office by notice in writing to the office;
- (b) the holder of the office ceases to be a member of the Board;
- or
- (c) the Board determines.

(4) Whenever the Chairman is absent or is for any reason unable to discharge the functions of his office, the Vice-Chairman shall discharge the functions of the Chairman.

6.-(1) Subject to subparagraph (2), the Board shall hold ordinary meetings for the discharge of its business at least four times in each year.

(2) An extraordinary meeting of the Board-

- (a) may be convened by the Chairman at any time;
- (b) in the absence of both the Chairman and the Vice-Chairman, the members present and forming the quorum shall elect one of their number to preside; and
- (c) the quorum shall be formed by any six members.

(3) At any meeting the decision of the Board on any matter shall be that of the majority of the members present and voting at that meeting, and in the event of any equality of votes, the chairman of the meeting shall have a casting vote in addition to his deliberative vote.

(4) Subject to this Act, the Board may make standing orders for the regulation of its proceedings and business and may vary, suspend or revoke any standing orders.

7. Members of the Board shall be paid from the funds of the Office such allowances as the Minister may determine and in determining the allowances the Minister may make provision for the reimbursement of any reasonable expenses incurred by a member of the Board in connection with the business of the Board.

8.-(1) Subject to this paragraph, the Board-

- (a) shall appoint a Copyright Administrator upon terms and conditions as may be approved by the Minister;
- (b) may appoint other staff as it considers necessary or desirable in the discharge of its duties and upon terms and conditions as it may determine.

(2) The Copyright Administrator after consultation with the Chairman of the Board may appoint temporary employees at such daily rates of pay, not below the minimum rates otherwise prescribed by written law, as he may consider appropriate and shall, after he has appointed any such employee, report the fact thereof to the Board at its next meeting.

(3) The Copyright Administrator shall be the Secretary to the Board.

(4) Subject to any general or special directions of the Board, the Copyright Administrator shall be the chief executive officer of the Board and responsible to the Board for the administration and management of its affairs, including the supervisions of other staff of the office.