



**REPUBLIC OF SOUTH AFRICA**

**GOVERNMENT GAZETTE**

---

**STAATSKOERANT**

**VAN DIE REPUBLIEK VAN SUID-AFRIKA**

*Registered at the Post Office as a Newspaper*

*As 'n Nuusblad by die Poskantoor Geregistreer*

PRICE + 1c GST 20c PRYS + 1c AVB  
ABROAD 30c BUITELANDS  
POST FREE · POSVRY

Vol. 179]

CAPE TOWN, 23 MAY 1980.

[No. 7010

KAAPSTAD, 23 MEI 1980

---

DEPARTMENT OF THE PRIME MINISTER

No. 988.

23 May 1980.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 56 of 1980: Copyright Amendment Act, 1980.

---

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 988.

23 Mei 1980.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 56 van 1980: Wysingswet op Outeursreg, 1980.

## COPYRIGHT AMENDMENT ACT, 1980

Act No. 56, 1980

## GENERAL EXPLANATORY NOTE:

- [**                      **]** Words in bold type in square brackets indicate omissions from existing enactments.
- \_\_\_\_\_ Words underlined with solid line indicate insertions in existing enactments.

# ACT

To amend the Copyright Act, 1978, so as to provide that originality shall be a requirement for copyright in any work; to apply certain provisions applying to a work, also to a substantial part of such work; to further define a diffusion service for certain purposes; to further define the circumstances in which reproduction of a work shall be permitted; to determine ownership of copyright; and to effect certain textual alterations; and to provide for matters connected therewith.

*(English text signed by the State President.)*  
*(Assented to 5 May 1980.)*

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 1 of the Copyright Act, 1978 (hereinafter referred to as the principal Act), is hereby amended by the insertion after subsection (2) of the following subsection: Amendment of section 1 of Act 98 of 1978.

“(2A) Any reference in this Act to the doing of any act in relation to any work shall, unless the context otherwise indicates, be construed as a reference also to the doing of any such act in relation to any substantial part of such work.”.

2. Section 2 of the principal Act is hereby amended— Amendment of section 2 of Act 98 of 1978.

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“(1) Subject to the provisions of this Act, the following works, if they are original, shall be eligible for copyright—”; and

(b) by the substitution for subsection (2) of the following subsection:

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

[(a) sufficient effort or skill has been expended on making the work to give it a new and original character; and

(b)] the work has been written down, recorded or otherwise reduced to material form.”.

3. Section 6 of the principal Act is hereby amended— Amendment of section 6 of Act 98 of 1978.

(a) by the substitution for the words preceding paragraph (a) of the following words:

“Copyright in a literary or musical work **[or any substantial part thereof]** vests the exclusive right to do

## COPYRIGHT AMENDMENT ACT, 1980

Act No. 56, 1980

or to authorize the doing of any of the following acts in the Republic:"; and

(b) by the substitution for paragraph (e) of the following paragraph:

5 "(e) causing the work to be transmitted in a diffusion service, unless such service transmits a lawful broadcast, including the work, and is operated by the original **【broadcast】** broadcaster;"

4. Section 7 of the principal Act is hereby amended—

10 (a) by the substitution for the words preceding paragraph (a) of the following words:

Amendment of section 7 of Act 98 of 1978.

"Copyright in an artistic work **【or any substantial part thereof】** vests the exclusive right to do or to authorize the doing of any of the following acts in the Republic:"; and

15 (b) by the substitution for paragraph (d) of the following paragraph:

20 "(d) causing a television or other programme, which includes the work, to be transmitted in a diffusion service, unless such service transmits a lawful television broadcast, including the work, and is operated by the original **【broadcast】** broadcaster;"

5. Section 8 of the principal Act is hereby amended—

25 (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

Amendment of section 8 of Act 98 of 1978.

30 "(1) Copyright in a cinematograph film **【or any substantial part thereof】** vests the exclusive right to do or to authorize the doing of any of the following acts in the Republic:"; and

(b) by the substitution for paragraph (d) of the following paragraph:

35 "(d) causing the film to be transmitted in a diffusion service, unless such service transmits a lawful television broadcast, including the film, and is operated by the original **【broadcast】** broadcaster;"

6. The following section is hereby substituted for section 9 of the principal Act:

Substitution of section 9 of Act 98 of 1978.

40 "Nature of copyright in sound recordings. 9. Copyright in a sound recording **【or any substantial part thereof】** vests the exclusive right to do or to authorize the doing of any of the following acts in the Republic:

(a) Making, directly or indirectly, a record embodying the sound recording;

45 (b) importing records embodying the sound recording and distributing them, directly or indirectly, to the general public or any section thereof."

7. Section 10 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

Amendment of section 10 of Act 98 of 1978.

"Copyright in a broadcast **【or any substantial part thereof】** vests the exclusive right to do or to authorize the doing of any of the following acts in the Republic:"

8. The following section is hereby substituted for section 13 of the principal Act:

Substitution of section 13 of Act 98 of 1978.

55 "General exceptions in respect of 13. **【The】** In addition to reproductions permitted in terms of this Act reproduction of a work shall also be permitted as prescribed by regulation, but

## COPYRIGHT AMENDMENT ACT, 1980

Act No. 56, 1980

reproduction of works. in such a manner that the reproduction is not in conflict with a normal exploitation of the work and is not unreasonably prejudicial to the legal legitimate interests of the author owner of the copyright.”.

5

9. The following section is hereby substituted for section 21 of the principal Act:

Substitution of section 21 of Act 98 of 1978.

“Ownership of copyright.

21. (1) (a) Subject to the provisions of this section,

10

the ownership of any copyright conferred by section 3 or 4 on any work shall vest in the author or, in the case of a work of joint authorship, in the co-authors of the work.

15

(b) Where a literary or artistic work is made by an author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, and is so made for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall be the owner of the copyright in the work in so far as the copyright relates to publication of the work in any newspaper, magazine or similar periodical or to reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the owner of any copyright subsisting in the work by virtue of section 3 or 4.

20

25

30

35

(c) Where a person commissions the taking of a photograph, the painting or drawing of a portrait, the making of a gravure, the making of a cinematograph film or the making of a sound recording and pays or agrees to pay for it in money or money's worth, and the work is made in pursuance of that commission, such person shall, subject to the provisions of paragraph (b), be the owner of any copyright subsisting therein by virtue of section 3 or 4.

40

(d) Where in a case not falling within either paragraph (b) or (c) a work is made in the course of the author's employment by another person under a contract of service or apprenticeship, that other person shall be the owner of any copyright subsisting in the work by virtue of section 3 or 4.

45

(e) Paragraphs (b), (c) and (d) shall in any particular case have effect subject to any agreement excluding the operation thereof and subject to the provisions of section 20.

50

(2) Ownership of any copyright conferred by section 5 shall initially vest in the state or the international organization concerned, and not in the author.”.

10. This Act shall be called the Copyright Amendment Act, Short title. 1980.