



# GOVERNMENT GAZETTE

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No. 11900

KAAPSTAD, 30 MEI 1989

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1052.

30 May 1989

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

No. 61 of 1989: Copyright Amendment Act, 1989.

No. 1052.

30 Mei 1989

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

No. 61 van 1989: Wysigingswet op Outeursreg, 1989.

Act No. 61, 1989

COPYRIGHT AMENDMENT ACT, 1989

**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 make provision relating to importing, selling and distribution in connection with the nature of copyright in cinematograph films and sound recordings; to provide that certain infringements in respect of certain cinematograph films will no longer be an offence; and to extend the functions of the advisory committee; and to provide for matters connected therewith.

*(English text signed by the State President.)*  
*(Assented to 17 May 1989.)*

**B**E IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 8 of Act 98 of 1978, as amended by section 5 of Act 56 of 1980 and section 6 of Act 52 of 1984**

1. Section 8 of the Copyright Act, 1978 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (g) of subsection (1) of the following paragraph: 5

“(g) **[importing (other than importing for the private and domestic use of the importer), selling]** letting, or offering or exposing for **[sale or]** hire by way of trade, **[or distributing]** directly or indirectly, a reproduction or an 10 adaptation of the film.”.

**Amendment of section 9 of Act 98 of 1978, as substituted by section 6 of Act 56 of 1980 and amended by section 7 of Act 52 of 1984**

2. Section 9 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph: 15

“(b) **[importing (other than importing for the private and domestic use of the importer), selling]** letting, or offering or exposing for **[sale or]** hire by way of trade, **[or distributing]** directly or indirectly, a reproduction of the sound recording.”.

**Amendment of section 27 of Act 98 of 1978, as amended by section 11 of Act 52 of 1984** 20

3. Section 27 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any person who at a time when copyright subsists in a work, without the authority of the owner of the copyright—  
 (a) makes for sale or hire; 25

## Act No. 61, 1989

## COPYRIGHT AMENDMENT ACT, 1989

- (b) sells or lets for hire or by way of trade offers or exposes for sale or hire;
- (c) by way of trade exhibits in public;
- (d) imports into the Republic otherwise than for his private or domestic use;
- (e) distributes for purposes of trade; or
- (f) distributes for any other purposes to such an extent that the owner of the 5  
copyright is prejudicially affected,  
articles which he knows to be infringing copies of the work, [or, in the case  
where such work consists of a cinematograph film registered in terms of the  
Registration of Copyright in Cinematograph Films Act, 1977 (Act No. 62 of  
1977), articles which are reproductions or adaptations of the cinematograph film] 10  
shall be guilty of an offence.”.

## Amendment of section 40 of Act 98 of 1978

## 4. Section 40 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following 15  
paragraph:  
“(a) The Minister shall appoint an advisory committee [on copyright law]  
consisting of a judge or a senior advocate of the Supreme Court of  
South Africa as chairman and such *ex officio* and other members as the  
Minister may from time to time determine.”;
- (b) by the substitution for subsection (3) of the following subsection: 20  
“(3) The advisory committee may from time to time make recommen-  
dations to the Minister in regard to any amendments to this Act and to the  
Trade Marks Act, 1963 (Act No. 62 of 1963), the Designs Act, 1967 (Act  
No. 57 of 1967), and the Patents Act, 1978 (Act No. 57 of 1978), and shall  
advise the Minister on any matter referred to it by the Minister.”; 25
- (c) by the substitution for paragraph (a) of subsection (4) of the following  
paragraph:  
“(a) The advisory committee [shall] may constitute and maintain [at all  
times] subcommittees [on sound recordings, cinematograph films,  
broadcasting and such other practices as the Minister may from time to 30  
time determine].”; and
- (d) by the substitution for subsection (5) of the following subsection:  
“(5) The advisory committee may call to its assistance any person it may  
deem necessary to assist it with, or to investigate matters relating to,  
[copyright law] the functions referred to in subsection (3).” 35

## Short title and commencement

5. (1) This Act shall be called the Copyright Amendment Act, 1989, and shall, subject to the provisions of subsection (2), be deemed to have come into operation on 1 April 1989.

(2) Section 4 shall come into operation on a date to be fixed by the State President 40  
by proclamation in the *Gazette*.