

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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KANTOOR VAN DIE EERSTE MINISTER

No. 1163.

1 June 1983

No. 1163.

1 Junie 1983

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

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

No. 66 of 1983: Copyright Amendment Act, 1983.

No. 66 van 1983: Wysigingswet op Outeursreg, 1983.

Act No. 66, 1983

COPYRIGHT AMENDMENT ACT, 1983

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, with respect to certain definitions; so as to limit copyright in certain artistic works of which three-dimensional reproductions were made available to the public; to facilitate the establishment of certain facts in actions brought by virtue of certain provisions of the said Act; to make further provision for the regulation and control of the distribution, performance or exhibition of works without the consent of the copyright owner; and to make provision for the regulation and control of the reproduction or adaptation of certain artistic works without the consent of the copyright owner; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 20 May 1983.)

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

Amendment of section 1 of Act 98 of 1978, as amended by section 1 of Act 56 of 1980.

1. Section 1 of the Copyright Act, 1978 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (c) of the definition of "artistic work" of the following paragraph: 5
- "(c) works of artistic craftsmanship, or works of craftsmanship of a technical nature, not falling within either paragraph (a) or (b);"; 10
- (b) by the substitution in subsection (1) for the definition of "drawing" of the following definition: 15
- ""drawing" includes any drawing of a technical nature or any diagram, map, chart or plan;";
- (c) by the substitution in subsection (1) for the definition of "Minister" of the following definition: 15
- ""Minister" means the Minister of [Economic Affairs] Industries, Commerce and Tourism;"; and
- (d) by the addition in subsection (1) of the following paragraph to the definition of "reproduction"; 20
- "(c) any work, includes a reproduction made from a reproduction of that work;".

Amendment of section 15 of Act 98 of 1978.

2. Section 15 of the principal Act is hereby amended by the insertion after subsection (3) of the following subsection:

- "(3A) (a) The copyright in an artistic work of which three-dimensional reproductions were made available, whether inside or outside the Republic, to the public by or with the consent of the copyright owner (hereinafter referred to as authorized reproductions), shall not be infringed if any person without the consent of the owner makes or makes available to the public three-dimensional reproductions or adaptations of the authorized reproductions, provided— 25 30

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- (i) a period of at least 10 years has elapsed since the end of the calendar year in which authorized reproductions of such work were first made available to the public; and
- (ii) the authorized reproductions primarily have a utilitarian purpose and are made by an industrial process.
- (b) For the purposes of paragraph (a) (i) authorized reproductions of any artistic work in question made available to the public before the commencement of section 2 of the Copyright Amendment Act, 1983, shall be deemed to have been first so made available on the date of such commencement.”

Amendment of section 26 of Act 98 of 1978.

3. Section 26 of the principal Act is hereby amended by the addition of the following subsection: 15

- “(8) Where in an action brought by virtue of this Chapter with respect to the alleged infringement by a person of the copyright in any artistic work of which three-dimensional reproductions were made available, whether inside or outside the Republic, to the public by or with the consent of the copyright owner, it is proved that such reproductions at the time when they were so made available bore a label or other mark specifying the following claims, namely—
- (a) that copyright exists in the artistic work of which the reproductions were made; 25
- (b) that a person specified on the label or mark was the owner or exclusive licensee of the copyright; and
- (c) that the reproductions were first made available to the public in a year specified on the label or mark, (which claims may be indicated by means of the symbol “©” in conjunction with the name of the relevant person and the relevant year) it shall be presumed, until the contrary is proved— 30
- (i) that the reproductions were first made available to the public in the year so specified; and 35
- (ii) that the first-mentioned person had at all relevant times been aware of the claims referred to in paragraphs (a), (b) and (c).”

Substitution of section 45 of Act 98 of 1978.

4. The following section is hereby substituted for section 45 of the principal Act: 40

“Regulation and control of distribution, performance or exhibition of works.

45. (1) Notwithstanding anything to the contrary in this Act contained, the Minister may make such regulations as he may consider necessary in regard to the [circulation, presentation] distribution, performance or exhibition of any work [or production]. 45

(2) Such regulations may empower any person specified therein to prohibit the [circulation, presentation] distribution, performance or exhibition of any such work [or production] or to authorize the [circulation, presentation] distribution, performance or exhibition thereof on such conditions as may be specified in those regulations. 50

(3) The [circulation, presentation] distribution, performance or exhibition of any work [or production] in pursuance of authority granted in terms of such regulations shall not constitute an infringement of copyright in such work [or the production], but the [author] copyright owner shall not thereby be de-

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prived of **[his]** any right which he may have had to obtain a reasonable remuneration, which shall in default of agreement be determined by arbitration."

Insertion of section 45A in Act 98 of 1978.

5. The following section is hereby inserted in the principal Act after section 45:

"Regulation and control of the reproduction or adaptation of artistic works. **45A. (1)** Notwithstanding anything to the contrary in this Act contained, the Minister may make such regulations as he may consider necessary in regard to the reproduction or adaptation, or the making available to the public of reproductions or adaptations, of any artistic work. 10

(2) Such regulations may empower any person specified therein to authorize the reproduction or adaptation, or the making available to the public of reproductions or adaptations, of any artistic work on such conditions as may be specified in those regulations. 15

(3) The reproduction or adaptation, or the making available to the public of reproductions or adaptations, of any artistic work in pursuance of authority granted in terms of such regulations shall not constitute an infringement of copyright in such work, but the copyright owner shall not thereby be deprived of any right which he may have had to obtain a reasonable remuneration, which shall in default of agreement be determined by arbitration." 25

Short title and commencement.

6. (1) This Act shall be called the Copyright Amendment Act, 1983, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act. 30