



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

Copyright Law

Pyidaungsu Hluttaw Law No. 15/2019

6th Waning Day of Kasone, 1381

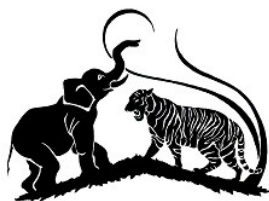
24th May 2019

The Pyidaungsu Hluttaw hereby enacts this law.

Chapter 1

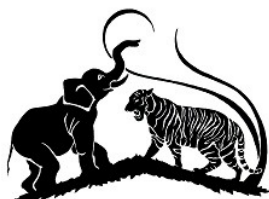
Title, effective date and definitions

1. (a) This law shall be called the Copyright Law.
- (b) This law shall enter into force on the date specified by the President of the Republic of the Union of Myanmar in a notification.
2. The following expressions contained in this law shall have the meaning given hereunder -
 - (a) “**Union**” means the Republic of the Union of Myanmar.
 - (b) “**Central Committee**” means the Copyrights Central Committee which is established in accordance with this law.
 - (c) “**Ministry**” means the Ministry of Commerce of the Union Government.
 - (d) “**Competent Ministry**” means the Ministry of Information, Ministry of Industry, Ministry of Agriculture, Livestock and Irrigation or Ministry of Education of the Union Government.
 - (e) “**Agency**” means the Copyrights Agency established by this law.
 - (f) “**Department**” means the Department appointed by the Ministry to perform matters with regard to Intellectual Property Rights.
 - (g) “**Registration Officer**” means the Director General of the Department that performs on the matters regard to Copyrights registration.
 - (h) “**Intellectual Property Right**” means the right according to the law to protect own inventions created by one’s own intelligence. This term includes Copyright, patent, industrial design right and trademark.
 - (i) “**Copyright**” means an exclusive literary and artistic right of the original Author or creator of a Literary and Artistic Work accorded by the provisions of this law.



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- (j) **“Related Rights”** means the exclusive rights of Performers, Phonogram Producers and Broadcasting organisations as prescribed in chapter 14 of this law.
- (k) **“Literary and Artistic Work”** means any literary and artistic work or derivative work mentioned in sections 13 and 15 of this law.
- (l) **“Author”** means a natural person who has originally created the Literary and Artistic Work that is protected according to this law.
- (m) **“Copyright Owner”** means any of the following persons, the heir of that person, or organisations -
 - (1) The Author
 - (2) the legal entity or person in which the economic rights are automatically vested, but which is not the Author;
 - (3) the legal entity or person to whom the economic rights have been transferred.
- (n) **Related Rights Owner** means the following person, the heir of that person or a legal entity -
 - (1) Performer, Phonogram Producer and Broadcasting organisation
 - (2) A natural person or legal entity but not the Performer, Phonogram Producer or Broadcasting organisation to whom the economic rights have originally been transferred.
 - (3) A natural person or legal entity to whom/which the ownership of the economic rights has been transferred in accordance with the law.
- (o) **“Rights Owner”** means the Author or rights holder in whom the Copyright is vested. This term includes a transferee, licensee or heir to the Copyright or Related Rights.
- (p) **“Performer”** means a musician, singer, actor, dancer or other person who sings, plays with an instrument, acts, recites, translates, narrates or otherwise performs a Literary and Artistic Work or Expression of Folklore.
- (q) **“Performance”** means -
 - (1) If not an Audiovisual Work or Cinematographic Work: reciting, singing, playing with an instrument, acting or otherwise performing a Literary and Artistic Work, either directly or through intermediary devices or through a process;



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- (2) if audiovisual or Cinematographic Work: showing images in a systematic order and making the accompanying sound audible;
- (3) if a Phonogram: making the recorded sound audible.
- (r) **“Producer”** means a natural person or legal entity that leads the production of an Audiovisual Work or Cinematographic Work or a Phonogram and that is responsible for its production.
- (s) **“Composite Work”** means a composition of Literary and Artistic Works by making creative selections and arrangements.
- (t) **“Work of Joint Authorship”** means a Literary and Artistic Work created by two or more Authors.
- (u) **“Audiovisual Work”** means a 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.
- (v) **“Cinematographic Work”** means a work containing moving images, regardless of whether there is sound, which can be seen if there is no sound and which can be seen and heard if there is sound.
- (w) **“Work of Applied Art”** means an artistic creation with utilitarian functions or incorporated in a useful article, whether made by hand or produced on an industrial scale.
- (x) **“Phonogram”** means the Fixation of the sounds of a Performance or of other sounds, or of a representation of sounds, on phonographic discs, recording tapes and other material form, other than in the form of a Fixation incorporated in an Audiovisual Work.
- (y) **“Photographic Work”** means a work created by chemistry, electronic means or other technology to capture an image, or by any medium that created an image by capturing light or the transmission of light.
- (z) **“Fixation”** means the first embodiment of sounds, images or both or of the representation of a Performance, from which it can be perceived, reproduced or communicated through a disc, tape or other medium.
- (aa) **“Broadcasting”** means the wireless transmission of a work, a Performance or a Phonogram to the public, including transmission by satellite.



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- (bb) **“Expression of Folklore”** means a tangible or intangible art form in the following categories which contains an expression of culture and knowledge -
- (1) Oral expressions such as tales, stories, legends, poems, riddles, other narrations, proverbs, signs, names and symbols;
 - (2) musical expressions through text and sound;
 - (3) behavioral expressions such as dance, play, ceremonies and traditions;
 - (4) tangible expressions (special creations of artwork) such as drawings, decorative patterns, paintings (including body painting), sculptures, pottery, earthenware, glassware decorated with gems, metalware, jewellery, engravings, sewed textiles, needlework, textiles, glassware, tapestry, ancient costumes, handicraft, musical instruments, architectural models, inscribed palm leaves, palm rolls, stone, bricks, bells and walls.
- (cc) **“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.
- (dd) **“Information Concerning the Management of a Copyright or Related Rights”** means the following -
- (1) Information expressing the Literary and Artistic Work and the original Author or owner of the Literary and Artistic Work;
 - (2) information expressing the terms of the use of a Literary and Artistic Work;
 - (3) Information expressing the Performer, Performance, Phonogram Producer, Phonogram or the Owner of a Right to the Performance of a Phonogram.
 - (4) Information expressing the terms of use of a Performance or Phonogram.
 - (5) The numbers or symbols representing above information contained in subsections (1), (2), (3) and (4) when any information is placed in a copy of a work or a work that is being transmitted to the public.
- (ee) **“Technological Safety Measures”** means technology, an apparatus or part of an apparatus that prevents or limits Literary and Artistic Works or other creations from being used or taken without the consent of the Rights Owner.



- (ff) “**Reproduction**” means the making of one copy or more than one copy of a work or Phonogram in any manner or form, including any permanent or temporary storage of the work or Phonogram in electronic form.
- (gg) “**Transmission to the Public**” means the transmission by wire or wireless means of a work, images, sounds, both images and sounds, a Performance, a Phonogram or a broadcast to members of the public so that they may access it from a place or at a time individually chosen by them.
- (hh) “**Public Distribution**” means the sale or distribution, with a transfer of ownership, of the original or a copy of a Literary and Artistic Work, audiovisual Performance or Phonogram. This term includes the import for redistribution, sale to the public and transfer of ownership by other means.
- (ii) “**Reproduced Work**” means copies of a Literary and Artistic Work in a limited number that were created with the consent of the Author or Producer with the intention to sell, rent, otherwise transfer or possess.
- (jj) “**Visually Impaired Person**” means the following -
- (1) a person who has been visually impaired since birth;
 - (2) a person who does not have the same visual ability as other persons with normal visual ability, intelligence and reading skills;
 - (3) a person who cannot hold a book due to physical impairment, or a person who does not have the ability to focus or move the eyes which would be required to read.
- (kk) “**Relevant Organisation**” means a non-profit organisation approved by the Union Government to provide books, information, education or training with such modification that the use by Visually Impaired Persons is possible. This term includes both non-profit government organisations and private organisations that provide such services.
- (ll) “**Organisation that Collectively Manages Copyrights or Related Rights**” means a non-profit organisation formed to manage in order to protect a copyright and related rights according to this law based on the agreement among Authors, Copyright Owners and Related Rights Owners.



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- (mm) “**Items that Infringe a Copyright or Related Rights**” means replicas made without the consent of the Rights Owner or replicas that directly or indirectly infringe any Copyright or Related Rights under this law.
- (nn) “**Intellectual Property Rights Court**” means a court which is established by the Supreme Court according to the law to handle Intellectual Property Rights matters or a court in which the power of such court to handle intellectual property matters is vested.
- (oo) “**Member State**” means any member of conventions, treaties or agreements or international or regional organisations with respect to Intellectual Property Rights in which the Union is a member.

Chapter 2 Objectives

3. The objectives of this law are as follows:
- (a) developing literary and artistic productions by arranging for the development of Literary and Artistic Works, Performances, Phonograms, productions and distribution;
 - (b) giving protection to the Copyright of a Literary and Artistic Work of the Author and the Copyright Owner in accordance with the law;
 - (c) giving protection to the Related Rights of a Performer, Phonogram Producer and Broadcasting organisation;
 - (d) assisting in the protection and development of expressions of folklore and cultural heritage.

Chapter 3 Formation of the Committee and its functions

4. The Union Government -
- (a) Shall establish the Intellectual Property Rights Central Committee as follows to administer Intellectual Property Rights matters -
 - (1) Vice president Chairman
 - (2) Union minister from the Ministry Vice-chairman
 - (3) Deputy ministers from the Competent Ministries Member
 - (4) Deputy ministers or directors general from other Member

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appropriate ministries

- | | | |
|-----|---|-----------------|
| (5) | Not more than four Intellectual Property Rights experts | Member |
| (6) | Two representatives from non-governmental organisations | Member |
| (7) | A person appointed by the president | Secretary |
| (8) | Director general of the Department | Joint-secretary |

(b) The Central Committee formed under sub-section (a) may be reorganised as required.

5. The functions of the Central Committee are as follows -

- (a) To develop Intellectual Property Rights policies, strategies and programmes in order to promote Intellectual Property Rights businesses in the Union;
- (b) to facilitate the implementation of Intellectual Property Rights policies, strategies and programmes;
- (c) to guide the development of the national economy, foreign investments and SMEs by means of Intellectual Property Rights;
- (d) to encourage human resources development programmes in order to promote Intellectual Property Rights businesses;
- (e) to coordinate among competent government departments and organisations, other organisations and private business owners concerning the development and implementation of an Intellectual Property Rights system;
- (f) to promote the coordination between local and foreign organisations concerning the acquisition of technology and required assistance;
- (g) to scrutinise and approve applications to establish an Organisation Relevant for visually impaired persons; and
- (h) to perform the tasks related to Intellectual Property Rights assigned by the Union government as required.

Chapter 4

Formation of the Agency and its Functions

6. The Central Committee -



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- (a) The Intellectual Property Rights Agency shall be established with the consent of the Union government as follows:
- | | | |
|-----|---|-------------------|
| (1) | Secretary of the Central Committee | Chairman |
| (2) | Directors general of the Ministry and the Competent Ministries who are relevant to the Agency | Members |
| (3) | Not more than eight Intellectual Property Rights experts | Members |
| (4) | Not more than five representatives from non-governmental organisations | Members |
| (5) | Director general of the Department | Secretary |
| (6) | Heads of the sub-departments of the Department | Joint-secretaries |
- (b) The Agency formed according to sub-section (a) may be reorganised as required.
7. The chairman of the Agency shall be considered to be equivalent to a deputy minister.
8. The functions of the Agency are as follows -
- (a) Coordinating in Copyright matters;
 - (b) implementation of Copyright policies, strategies and programs and human resources development programs made by the Central Committee in order to develop the Copyright system;
 - (c) studying Copyright and related conventions, treaties and agreements and advising the Central Committee to which the Union should accede;
 - (d) implementing the functions according to the provisions of the Copyright or related conventions, treaties and agreements in which the Union is a member;
 - (e) cooperating with local, regional and international organisations and Member States concerning Copyright;
 - (f) advising the Central Committee on the formation and functions of working groups for taking action against Copyright Infringements;
 - (g) Deciding the appeal against a decision of the Registration Officer;



- (h) setting, with the approval of the Union government through the Central Committee, the fees and charges to be collected under this law;
- (i) creating a seal which will be used during the approval process of the Copyright registration;
- (j) submitting reports and other required reports to the Central Committee;
- (k) submitting an annual Copyright report to the Central Committee;
- (l) performing functions related to Intellectual Property Rights specified by the Central Committee from time to time.

Chapter 5

Functions of the Department

9. The functions of the department are as hereunder -
- (a) To announce registration matters relating to Copyrights.
 - (b) to maintain the registers related to Copyrights;
 - (c) to supervise the operation of the sub-departments formed according to the Copyright sectors; and
 - (d) to perform Intellectual Property Rights-related functions assigned by the Agency from time to time.

Chapter 6

Appointing the Registration Officer and assigning his functions

10. The Ministry may appoint, with the recommendation of the Agency, the Registration Officer in order to perform Intellectual Property Rights matters at the Department.
11. The functions of the Registration Officer are as follows -
- (a) Supervising and monitoring the registration of Copyrights and Related Rights.
 - (b) Reviewing the application for Copyrights and Related Rights registration.
 - (c) Summoning relevant persons and requesting evidentiary documents during registration of Copyrights and Related Rights.
 - (d) Deciding whether to approve or reject a Copyrights and Related Rights registration;



- (e) Performing the functions specified by the Central Committee and the Agency relating to Intellectual Property Rights.

Chapter 7

Scope of application

- 12. The provisions of this law shall apply to the protection of the following Literary and Artistic Works, Performers, Performances, Phonograms, Broadcasting organisations and broadcasts -
 - (a) In case of a Literary and Artistic Work -
 - (1) Works of Authors who are citizens of, or reside in, the Union.
 - (2) Works first published in the Union or a Member State, or works published in a third country and also published in the Union within thirty days;
 - (3) audiovisual works and film works, the Producer of which has his headquarters or habitual residence in the Union;
 - (4) works of architecture erected in the Union and other artistic works incorporated in a building or other structure located in the Union.
 - (b) A Performer -
 - (1) Being a citizen of or residing in the Union;
 - (2) Although he/she is not a citizen or residing in the Union -
 - (aa) The performance is made in the Union;
 - (bb) involvement in a Broadcasting that qualifies for protection under this law, even if there is no Fixation of sound in a Phonogram protected under this law.
 - (c) A Phonogram -
 - (1) produced by a citizen;
 - (2) a Phonogram if the sound is first fixed in the Union;
 - (3) if the producer of the Phonogram is not a citizen of or residing in the Union, the Phonogram is first produced in the Union or produced within 30 days in the Union after the first production was made in another country;
 - (d) Transmission -



- (1) transmitted by an organisation whose headquarters is located in the Union;
 - (2) transmitted by a transmitter located in the Union.
- (e) Literary or art works, Performances, Phonograms and transmissions that shall be protected in accordance with the conventions or agreements or treaties in relation to Copyrights or Related Rights to which the Union is a Member State.

Chapter 8

Literary and Artistic Works that are protected and those that are not protected

13. Literary and Artistic Works which are original intellectual creations shall be protected as such, including:
- (a) books, pamphlets, poems, novels, articles, Computer Programs and other writings;
 - (b) speeches, lectures, addresses, sermons and other oral works;
 - (c) dramatic, dramatico-musical works, pantomimes, choreographic works and other works created for stage productions;
 - (d) musical works, with or without accompanying words;
 - (e) Audiovisual Works including Cinematographic Work;
 - (f) works of architecture;
 - (g) works of drawing, sketching, painting, carving, sculpture, engraving, mosaic, wood work, pottery, metal ware, terra-cotta, jewellery, handicrafts, costumes, indigenous textiles;
 - (h) lithography, weaving, tapestry and other works of fine art;
 - (i) Photographic Works;
 - (j) works of applied art;
 - (k) textile designs;
 - (l) three-dimensional works related to geography, topography, architecture or science.
14. Any Literary and Artistic Work shall be protected by the sole fact of their creation and irrespective of their mode or form of expression, as well as of their content, quality and purpose.
15. The following derivative works shall be protected without prejudice to the pre-existing Literary and Artistic Works:



- (a) translations, adaptations, arrangements and other transformations or modification of works;
 - (b) Collecting the Expression of Folklore including the collection of literary and art works.
 - (c) Collecting, such collection having creativity, the information by selecting and arranging in machine-readable or other form. However, information included in the collection shall not be protected.
16. Notwithstanding the provisions of sections 13, 14 and 15, the following subject matters shall not enjoy Copyright and Related Rights protection:
- (a) idea, procedure, system, concept, mathematical concept, principle, discovery or data;
 - (b) news of the day as mere items of information;
 - (c) the constitution and laws;
 - (d) procedures, rules, directives, notifications, explanations from a ministry, government organisation or regional or state government;
 - (e) Judgments and orders from a court.
 - (f) Translations and collections of (c) and (e).

Chapter 9

Protection period of the Copyright

17. Even if there is no registration in respect of a Literary and Artistic Work under this law -
- (a) the protection period for the economic rights is as follows -
 - (1) the economic rights shall be protected during the lifetime of the Author and for 50 years after his death;
 - (2) in the case of a Work of Joint Authorship, the economic right shall be protected during the life of the last surviving Author and for 50 years after his death;
 - (3) in the case of Audiovisual Work or Cinematographic Work, the economic right shall be protected for 50 years after the work is made available to the public with the approval of the Author or if there is no such engagement, the economic right of the work shall be protected for 50 years after its creation.



- (4) in the case of a work published anonymously or under a pseudonym, the economic rights shall be protected for 50 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 sub-section (1) or sub-section (2) shall apply, as the case may be;
- (5) in the case of government work, apart from the matters that don't have protection made under section 16, where a Government department or organisation is the first owner of the Copyright, the Copyright shall subsist until 50 years from the beginning of the calendar year following the year in which the work is first published or made available to the public.
- (6) in the case of a Work of Applied Art, the economic rights shall be protected for 25 years from the making of the work.
- (b) The moral rights shall be protected during the lifetime of the original owner; furthermore, they shall last forever after the death of the original Author.
- (c) When calculating the protection period specified in sub-section (a), the calculation shall be started on the first day of January of the year following the year in which the original Author passed away or the original work was created, made officially available to the public or published for the first time.

Chapter 10

Economic rights and moral rights

18. Without prejudice to the provisions of chapter 11 of this law, the Author or other Copyright Owner shall have the exclusive economic right to engage in the following acts by himself or to authorise any other person to do so -
- (a) Reproduction;
- (b) translation, adaptation, arrangement or other transformation or modification;
- (c) distribution to the public by sale or other transfer of ownership of the original or a copy;

Exception: The original Author or Copyright Owner shall not have the right to distribute the original or copy after it was sold or its ownership was transferred in any country with the consent of the original Author or Copyright Owner.



- (c) renting to the public for a consideration of the original or copy of a Literary and Artistic Work, musical database or symbol embodied in a Computer Program, Audiovisual Work or Phonogram;
- Exception: However, with regard to the rent, no rent shall be due for the Computer Program if the Computer Program is not the main object of the rent.
- (d) public Performance;
- (e) Broadcasting;
- (f) other Transmission to the Public;
- (g) composition of a self-created Literary and Artistic Work.
19. The Author or Copyright Owner may transfer the economic rights to another natural person in accordance with provisions made under Chapter (13) of this law.
20. The Author, even if he is not the owner of a right prescribed in section 18 with regard to a Literary and Artistic Work, shall have the following exclusive moral rights -
- (a) to have his name indicated prominently on the copies and in connection with any public use of his work, as far as practicable;
- (b) to have his pseudonym indicated on the copies and in connection with any public use of his work if his work was originally created under pseudonym;
- (c) to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, his work which would be prejudicial to his honor or reputation.
21. The original Author -
- (a) If the original Author is dead, the official heir under a will, the heir according to a law that applies to the original Author or a person or legal entity to whom the original Author transferred any exclusive moral rights specified in section 20 before his death shall have the right to succeed to any exclusive moral rights specified in section 20.
- (b) Can waive his moral rights to exclusive use. Such waiver shall be in writing and signed.

Chapter 11

Original ownership of economic rights

22. The Author who has created a Literary and Artistic Work shall be the original owner of the economic rights. Provided that -



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- (a) If the Literary and Artistic Work is of joint Authorship -
- (1) The co-Authors shall be the original owners of the economic rights.
 - (2) If a Work of Joint Authorship consists of parts that can be used separately and the Author of each part can be identified, the Author of each part shall be the original owner of the economic rights to the part that he has created.
- (b) If it is an audiovisual or Cinematographic Work -
- (1) The Producer shall be the original owner of the economic rights unless agreed otherwise.
 - (2) The economic rights of the original Author who created audiovisual or Cinematographic Work shall not infringe on the economic rights of the original Author who created the Literary and Artistic Work on which the creation of audiovisual or Cinematographic Work is based.
- (c) If it is a Composite Work, the natural person or legal entity at the initiative and under the direction of whom or which the work has been created shall be the original owner of the economic rights.
- (d) If it is a Photographic Work -
- (1) The original photographer shall be the owner of the economic rights.
 - (2) If the photographer has created the work for a remuneration agreed to separately in writing and the agreement has not been revoked, the person who ordered the creation of the Photographic Work shall be the owner of the economic rights.
- (e) If it is a Literary and Artistic Work created by an Author who is, by the agreement between employer and employee or result of that agreement, employed by a natural person or legal entity, during working hours, the employer shall be the original owner of the economic rights unless agreed otherwise.

Explanation: The term “employer” includes an official management representative of the employer or, if the employer is dead, his heir or the successor to his shares.

23. With respect to the presumption as Author or representative of the Author -



- (a) A natural person whose name is indicated as the Author on a work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the Author of the work; 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.
- (b) In the case of a pseudonymous or anonymous Literary and Artistic Work -
 - (1) The publisher whose name appears on the work shall, in the absence of proof to the contrary, be presumed to represent the Author and shall be entitled to the economic rights and moral rights of the Author.
 - (2) The right prescribed in sub-section (1) shall cease when the identity of the Author is revealed.

Chapter 12

Limitations of and exemptions from economic rights

- 24. Notwithstanding the provisions of sub-section (a) of section 18, a natural person may reproduce a published work without the authorisation of the Rights Owner exclusively for his own personal purposes. However, such Reproduction shall not be such that it would constitute a misuse of the Literary and Artistic Work or impact the legal rights of any Rights Owner. Provided that this exemption shall not apply in case of -
 - (a) Reproduction of a work of architecture in the form of a building or other construction;
 - (b) Reproduction of the musical work as a whole or important part in the form of book or notes.
 - (c) Reproduction of the whole or of a substantial part of a database in digital form;
 - (d) Reproduction of a Computer Program which is not compliance with the provision made under section 30.
- 25. Notwithstanding the provisions of sub-section (a) of section 18, the temporary Reproduction of a work shall be permitted if all the following conditions are met -
 - (a) a Reproduction in the process of a digital transmission of the work or when making a digitally stored work perceptible; and
 - (b) the act specified in sub-section (a) is done by an authorised person.



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26. (a) Notwithstanding the provisions of sub-section (a) of section 18, a Reproduction in the form of a quotation of a short part of a published work shall be permitted without authorisation of the Rights Owner.
- (b) The act specified in sub-section (a) must be compatible with fair practice and not exceed the extent justified by the purpose.
- (c) The quotation shall be accompanied by an indication of the source and the name of the Author, if his name appears in the work from which the quotation is taken.
27. Notwithstanding the provisions of sub-section (a) of section 18, the following Reproductions shall be permitted without authorisation of the Rights Owner. However, such act must be compatible with fair practice and not exceed the extent justified by the purpose. The source of the work reproduced and the name of the Author shall be indicated as far as practicable on all such copies -
- (a) Reproduction of a short part of a published work, a short part of features published in news, magazines and journal for teaching purposes.
- (b) Compilation of copies of a work reproduced according to sub-section (a) in electronic and published curriculums to be used in teaching provided by the educational organisations. (Such electronic and published curriculums to be placed in a secure network which is only accessible by teachers and students.)
- (c) Incorporation of parts of the Literary and Artistic Work in electronic or published form, either for personal use or to be placed in a library, into a thesis or research paper.
28. Notwithstanding the provisions of subsection (a) of section 18, any library or archive whose activities do not serve direct or indirect commercial gain may, without the authorisation of the Rights Owner, make a single copy of a Literary and Artistic Work in the following cases:
- (a) The Literary and Artistic Work reproduced shall be a published article, other short work or short extract of a work and the Reproduction is done because of a request by a natural person, provided that-
- (1) the library or archive is satisfied that the copy will be used solely for the purposes of study, teaching, or private research;
- (2) the act of Reproduction is an isolated case occurring, if repeated, on separate and unrelated occasions.



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- (b) The copy is made in order to preserve and, if necessary, replace a copy, or to replace a copy which has been lost, destroyed or rendered unusable in the permanent collection of another similar library or archive. Provided that -
 - (1) it is impossible to obtain such a copy under reasonable conditions;
 - (2) the act of Reproduction is an isolated case occurring, if repeated, on separate and unrelated occasions.
- (c) A Literary and Artistic Work may be copied as follows with the intention of Reproduction and preservation -
 - (1) A library or archive may obtain a copy or Reproduction from another library or archive if its collection of Literary and Artistic Work is not complete, and the Literary and Artistic Work is neither available on the market nor from its publisher.
 - (2) A library or archive may reproduce a Literary and Artistic Work if the work is neither available on the market nor from its publisher, even if the library or archive tried to obtain permission from the Rights Owner, but was unable to obtain it.
 - (3) The copy reproduced according to sub-section (1) or (2) may be studied on the premises of the library or archive. Furthermore, the library or archive may borrow the copy to a user for studying on the premises or for self-use.
- (d) Libraries may communicate and supply items to each other by post, fax or other secure electronic methods. However, if a copy of a Literary and Artistic Work is transferred in an electronic file, the file shall be deleted once printed out. The receiving library may provide such printed copy to its users. Such Reproduction and provision shall not be repeated.
- (e) A library or archive may translate, for research or education purposes, a Literary and Artistic Work that it officially acquired if this work is not in a language used by its users. Such translation shall not be used for other purposes.
- (f) A natural person or organisation may translate, for the information of the public or persons speaking a minority language, a Literary and Artistic Work from the minority language to the majority language or vice versa if this is not done in order to pursue commercial gain.



29. Notwithstanding the provisions of subsections (a), (f) and (g) of section 18, the following acts shall be permitted in respect of a work without the authorisation of the Rights Owner, subject to the indication of the source and the name of the Author as far as practicable -
- (a) The Reproduction in a newspaper or periodical, the Broadcasting or other Transmission to the Public, of an article published in a newspaper or periodical on current economic, political or religious topics or a broadcast work of the same character.
- Exemption: the Reproduction shall not be conducted if the Reproduction, Broadcasting and Transmission to the Public in other ways is expressly prohibited.
- (b) For the purpose of reporting current events, the Reproduction and the Broadcasting or other Transmission to the Public of short excerpts of a work published in the course of such events, to the extent justified by the purpose.
- (c) The publication and Reproduction in a newspaper, periodical or by other means, the Broadcasting or other Transmission to the Public of a political speech, a lecture, address, sermon, other similar literary or artistic declamation or other work of a similar nature delivered in public for the purpose of providing current information. Provided that such act shall not exceed the extent justified by the purpose.
30. With respect to a Computer Program -
- (a) Notwithstanding the provisions of sub-sections (a) and (b) of section 18, the Reproduction, in a single copy, or the adaptation of a Computer Program by the lawful owner of a copy of that Computer Program shall be permitted without the authorisation of the Rights Owner. Provided that the Reproduction or adaptation of a Computer Program shall comply with one of the following -
- (1) The Reproduction is made for the use of the Computer Program on a computer for the purpose and extent for which the Computer Program has been obtained;
- (2) the Reproduction is made for keeping as a record; or is required to replace the copy of the program if the copy is lost, destroyed or rendered unusable; or
- (3) the Reproduction is made of a back-up copy of a Computer Program by the owner of the Computer Program solely for his own use.
- (b) No copy or adaptation of a Computer Program shall be used for any purposes other than those specified in sub-section (a), and any such copy or adaptation shall be destroyed in



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the event that continued possession of the copy of the Computer Program ceases to be lawful.

31. The importation of a copy of a Literary and Artistic Work by a natural person shall be permitted without the authorisation of the Rights Owner if it is not for commercial gain.
32.
 - (a) Notwithstanding the provisions of sub-section (a) of section 18, any Broadcasting organisation may make, for the purpose of its own broadcasts and by means of its own facilities, an ephemeral recording of any Literary and Artistic Work which it is authorised to broadcast.
 - (b) However, where such recording has an exceptional documentary character, one copy of it may be preserved in official archives.
33.
 - (a) Notwithstanding the provisions of sub-sections (a), (c) (e) and (g) of Section 18, it shall be permitted without the authorisation of the Rights Owner to reproduce a published Literary and Artistic Work, Performance, Phonogram and broadcast for Visually Impaired Persons in an alternative manner or form which enables their perception of the work if all of the following conditions are fulfilled-
 - (1) The organisation that intends to engage in acts specified in sub-section (a) has the right to use the respective literary or artwork or its Reproduction;
 - (2) Quoting the information contains in the Reproduction of the Literary and Artistic Work into copy form, it shall not have any changes apart from the modification of the form into the understanding of Visually Impaired Person,
 - (3) copies are distributed exclusively to those impaired persons; and
 - (4) distribution on a non-profit basis.
 - (b) A Reproduction of a lawful work or copy of the work for which a Visually Impaired Person has a right to use may be made for personal use by the Visually Impaired Person or his guardian or caretaker.
 - (c) A Relevant Organisation from a Member State of the Marrakesh VIP Treaty that enables Visually Impaired Persons to obtain access to a published work shall, without authorisation by the Rights Owner, be permitted to distribute the Reproduced Work for the exclusive use by such organisations.
 - (d) A Relevant Organisation from a Member State of the Marrakesh VIP Treaty that enables Visually Impaired Persons to obtain access to a published work shall, without



authorisation by the Rights Owner, be permitted to distribute the Reproduced Work for the exclusive use by the impaired persons.

- (e) The exemptions specified in sub-sections (c) and (d) shall also apply to Relevant Organisations that initiated the distribution or modification of a copy without knowing, and without having cause to suspect, that the copy can also be used by persons who are not visually impaired. Such act shall only be done for an exclusive matter and not impair the legal rights of a Rights Owner through a use against its normal use.

Chapter 13

Transfer of economic rights

- 34. (a) A Rights Owner of a Copyright may transfer his economic rights in whole or in part to another natural person or legal entity.
 - (b) A Rights Owner a Copyright may transfer his economic rights to another natural person or legal entity by any of the following methods -
 - (a) Inheritance according to a law in force or a custom
 - (b) transfer by will;
 - (c) gift or donation;
 - (d) transfer of ownership under any existing law;
 - (e) license.
 - (c) A Related Rights Owner shall transfer his or her economic rights with the consent of all the Related Rights Owners to another person or legal entity through any of the methods specified in sub-section (b).
 - (d) The Copyright Owner or Related Rights Owner shall transfer his economic rights in writing and sign.
35. When transferring a registered Copyright or Related Rights -
- (a) The transferee may apply for the registration of the transfer to the Department upon payment of the specified fees.
 - (b) With regard to an amendment or cancellation of the record of a transfer, both parties may apply to the Registration Officer with relevant documents as prescribed.



36. The Registration Officer shall, with regard to an application according to section 35, register and announce the transfer, amendment or cancellation as prescribed.

Chapter 14

Related Rights of a Performer, Phonogram Producer or Broadcasting Organisation and protection period

37. A Performer shall have the exclusive economic right to do or authorise any of the following acts -
- (a) Broadcasting or other Transmission to the Public of his unfixed Performance, except where the Broadcasting or the other transmission is -
 - (1) made from a Fixation of the Performance with the approval of the Performer or otherwise made according to section 41 without the authorisation of the respective Performer; or
 - (2) a re-Broadcasting 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 distribution to the public, by sale or other transfer of ownership, of a Fixation of his Performance or of copies thereof that have not already been sold or transferred in any country with the authorisation of the Performer;
 - (e) rental to the public for a consideration of a Fixation of his Performance or copies thereof, irrespective of the ownership of the copy rented;
 - (f) the making available to the public of his fixed Performance, by wire or wireless means, in such a way that members of the public may access it from a place or at a time individually chosen by them.
38. With respect to the rights of a Performer -
- (a) Independently of the Performer's economic rights, and even after the transfer of those rights, the Performer shall, as regards his live 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



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Performance, and to object to any distortion, mutilation, or other modification of his Performances that would be prejudicial to his reputation.

- (b) The period of protection of the rights under this section shall last until the end of the 50th calendar year following the year in which the Performance was fixed in a Phonogram, or in the absence of such a Fixation, from the end of the year in which the Performance took place. In addition to the protection period during life, the protection period of the moral rights of a Performer shall be unlimited after his death.
- (c) Nothing in this section shall be construed to deprive Performers of the right to agree by contracts on terms and conditions more favorable to them.

39. With respect to a Phonogram Producer -

- (a) A Producer shall have the exclusive economic rights to do or to authorise any of the following acts -
 - (1) direct or indirect Reproduction of the Phonogram in any manner or form;
 - (2) importation of copies of the Phonogram;
 - (3) distribution to the public by sale or other transfer of ownership of the original or copies of the Phonogram that have not already been sold or transferred in any country with the authorisation of the Producer ;
 - (4) rental to the public for a consideration of a copy of the Phonogram irrespective of the ownership of the copy rented;
 - (5) the making available to the public of the Phonogram by wire or wireless means in such a way that members of the public may access it from a place or at a time individually chosen by them.
- (b) The rights under this section shall be protected from the publication of the Phonogram until the end of the 50th calendar year following the year of publication or, if the Phonogram has not been published, from the Fixation of the Phonogram until the end of the 50th calendar year following the year of Fixation.

40. With respect to a Broadcasting organisation -

- (a) a Broadcasting organisation shall have the exclusive economic rights to do or authorise any of the following acts -
 - (1) the re-Broadcasting of its broadcast;



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- (2) the Transmission to the Public of its broadcast;
 - (3) the Fixation of its broadcast;
 - (4) the Reproduction of a Fixation of its broadcast.
- (b) A Broadcasting organisation may broadcast, by cable or without cable, a Broadcasting transmitted by satellite that is not for the public through an authorised receiving entity. Such Broadcasting may be done only with the permission of the authorised receiving entity.
- (c) The rights under this section shall be protected from the moment when the Broadcasting takes place until the end of the 20th calendar year following the year in which the Broadcasting takes place.
41. The provisions in respect of protection under sections 37, 38, 39, 40 and 42 shall not apply to the following acts:
- (a) using short excerpts to the extent justified for reporting of 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;
 - (d) using a Performance, Phonogram or Broadcasting in Literary and Artistic Works which can be used under chapter 12.
- Exception: Such activity shall not be contrary to the ordinary use or infringe the lawful economic rights of the Rights Owner.
42. (a) If a Phonogram published for commercial purposes, or a Reproduction of such Phonogram, is used directly for Broadcasting or other Transmission to the Public or is publicly performed, a single equitable remuneration for the Performer or Performers and the Producer shall be paid by the user to the Producer.
- (b) Unless otherwise agreed between the Performers and the Phonogram Producer, relevant percentage amount received by the Producer under sub-section (a) shall be paid by the Producer to the Performers.



- (c) The right to an equitable remuneration under this section shall subsist from the date of publication of the Phonogram until the end of the 50th calendar year following the year of publication. Such Phonogram shall be protected according to section 39 (b).
- (d) A Phonogram shall be considered to be published for commercial purposes if it is made available to the public by wire or wireless means in such a way that members of the public may access it from a place and at a time individually chosen by them.

Chapter 15

Protection of Information Concerning the Management of a Copyright or Related Rights and of Technological Safety Measures

- 43. (a) With regard to Information Concerning the Management of a Copyright or Related Rights -
 - (1) No electronic information shall be removed or altered without the approval of the Rights Owner.
 - (2) Literary and Artistic Works, works to which Related Rights apply and other items protected under this law shall not be distributed, imported for distribution, broadcast or transmitted to the public if [*electronic information*] was removed or altered according to sub-section (1).
- (b) The provisions contained in sub-section (a) shall not apply to any acts of the government done pursuant to public policy or for security.
- 44. With regard to Technological Safety Measures -
 - (a) No technological safety measure shall be circumvented, removed, disabled or destroyed.

Explanation: Circumventing a technological safety measure includes the restoration of a modified Literary and Artistic Work or work to which Related Rights apply to its original form.
 - (b) Equipment, products, parts and services to be used for circumventing, removing, disabling or destroying a technological safety measure shall not be produced, imported, distributed, sold, advertised for sale or distribution or possessed.
- 45. (a) Notwithstanding section 44, a person exempted according to section 27 sub-sections (a) and (b), section 28 sub-section (b) and section 33 may exercise his right to circumvent a technological safety measure.



- (b) The provision contained in sub-section (a) shall not apply to Literary and Artistic Works or other works that are created to be used according to a contract by members from a place or at a time individually chosen by them.

Chapter 16

Registration of Copyrights or Related Rights

46. Any Author or Copyright Owner desirous of registering a Literary and Artistic Work or in order to obtain sound evidence that he has the rights shall file an application to the Registration Officer as prescribed.
47. The Registration Officer shall review the application and notify the applicant to re-apply if the application has not been made as prescribed.
48. The applicant applying for Copyright registration may -
- (a) Apply to the Registration Officer if there is an error in the application or in a document submitted to rectify the error upon payment of the specified fee before a decision is made by the Registration Officer or, upon an appeal, the Agency.
- (b) Withdraw the application for Copyright registration before a decision is made by the Registration Officer or, upon an appeal, the Agency.
49. The application for registration shall be deemed to be withdrawn if the applicant does not re-apply within 30 days after having received a notice according to section 47.
50. The Registration Officer, with regard to an application for registering a Literary and Artistic Work which meet the criteria -
- (a) may approve or reject the application after having reviewed whether it is compliance with the provisions under section 13, 14, 15 and 16.
- (b) The decision according to sub-section (a) shall be recorded, notified to the applicant and announced as prescribed if the application is approved.
- (c) A Copyright registration certificate shall be issued to the applicant if the application is approved.
51. (a) A holder of a Copyright registration certificate may, after paying the fees as specified, apply for a true copy to the Registration Officer if the original Copyright registration certificate has been destroyed or lost.
- (b) The Registration Officer shall issue a true copy after having reviewed the application.



52. The Copyright Owner may, after paying the prescribed fees, apply to the Registration Officer to rectify written errors or the nationality or address.
53. The holder of a Right Related to a Copyright may apply, according to the provisions of this chapter, for the registration of the Performance or Phonogram in order to have proof of rights ownership.
54. The Copyright of a Literary and Artistic Work and Rights Related to a Copyright of a Performer, Phonogram Producer and Broadcasting organisation shall exist irrespective of registration.

Chapter 17

Cancellation of a Copyright or Related Rights registration

55. If it is found that the registration of a Literary and Artistic Work or Related Right violates public or private interests, any interested person or organisation may apply to the Registration Officer for cancellation of the said registration.
56. The Registration Officer may, when there is an application by an interested person or organisation, cancel the registration of the Copyright or Related Rights in the following cases -
 - (a) It appears that the Literary and Artistic Work is not protected according to section 16;
 - (b) The Author or Copyright owner or Related Rights Owner is not entitled to registration;
 - (c) it appears that the certificate of the registration of the work has been obtained by fraud, misrepresentation or omission of any prescribed information.
 - (d) Receiving an order or decree regarding the invalidation of the registration of Copyrights or Related Rights from an Intellectual Property Rights Court.
57. The Registration Officer shall, if the registration of the Copyright or Related Rights has been cancelled or removed, record such cancellation or removal, notify the registration certificate holder and announce it as prescribed.

Chapter 18

Appeal

58. (a) Anyone not satisfied with a decision made by the Registration Officer regarding the registration of a Copyright under this law may, within 60 days from the date of receiving the notice of such decision, appeal to the Agency.



- (b) The Agency may, on appeal made under sub-section (a), confirm, revoke or amend the decision of the Registration Officer or instruct the Registration Officer to obtain further evidence.
 - (c) The Agency may, on obtaining further evidence under sub-section (b), confirm, revoke or amend the decision of the Registration Officer.
59. Anyone not satisfied with a decision made by the Agency may, within 90 days from the date of such decision, appeal to the relevant court authorised by the Union Supreme Court in this regard.

Chapter 19

Formation of an Organisation that Collectively Manages Copyrights and Related Rights and its functions

60. A person wishing to form an Organisation that Collectively Manages Copyrights or Related Rights -
- (a) may apply to the Agency to form a collective administration organisation for relevant categories of Literary and Artistic Works, enclosing the constitution of the organisation.
 - (b) With regard to the application in sub-section (a) for formation of an organisation that Collectively Manages Copyrights and Related Rights, the organisation may be formed for the relevant category of Literary and Artistic Works with relevant experts as members.
61. The Agency -
1. may approve with specific terms or reject the application according to section 60;
 2. shall supervise and coordinate the functions and Performances of the organisations which are formed for categories of Literary and Artistic Works after having been approved.
62. The respective Organisation that Collectively Manages Copyrights and Related Rights -
- (a) shall arrange to promote the creation of Literary and Artistic Works;
 - (b) may act as a mediator with regard to the protection of the Copyright of Authors and Rights Owners and Copyright violations;
 - (c) may accept Literary and Artistic Works or related works, Performances or Phonograms entrusted by Authors or Copyright Owners, collect equitable remuneration from users, and apportion the remuneration among Authors and Copyright Owners;



- (d) may collect and maintain, with the consent of the Author or Copyright Owner or Related Rights Owner or by purchasing, Literary and Artistic Works, Performances and Phonograms so that they do not disappear;
- (e) may obtain and give assistance from and to foreign organisations that collectively administers Copyright and Related Rights matters, international organisations and regional organisations;
- (f) shall comply with the rules, regulations and directives issued by the Ministry, relevant Ministries and Agency.

Chapter 20

Formation of the Intellectual Property Rights Court

63. The Supreme Court of the Union -

- (a) May establish Intellectual Property Rights Courts in appropriate areas and appoint judges in order to hear and decide in civil or criminal proceedings concerning Intellectual Property Rights matters;
- (b) may confer the power and jurisdiction to the judges appointed under sub-section (a) in order to hear and decide the cases relating to Intellectual Property Rights matters;
- (c) may confer the power and jurisdiction of an Intellectual Property Rights Court to the competent courts that have been conferred power to hear and decide Intellectual Property Rights matters before the establishment of the Intellectual Property Rights Courts under sub-section (a);
- (d) shall specify the jurisdiction and power of the courts that should have jurisdiction over appeals against and requests for amendments of the judgments, orders and decisions rendered by the Intellectual Property Rights Courts;
- (e) may confer the jurisdiction and power to the relevant Intellectual Property Rights Court to hear and decide an application filed in accordance with section 59.

Chapter 21

Copyright or Related Rights protection by customs department

64. A Rights Owner having sufficient grounds for suspecting that an import into the territory of Myanmar of items allegedly infringing a copyright or related Right has taken place, is taking place or is planned, may submit an application for a temporary suspension of the transport of such items to the director general of the customs department as prescribed.



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65. (a) The director general of the customs department -
- (1) Shall notify the applicant within 30 days after the receipt of the application filed according to section 64 whether the application has been approved or rejected.
 - (2) If the information provided is not sufficient, shall so notify the applicant requesting further information to be provided within 15 days after the receipt of the notice.
 - (3) May request a guarantee from the applicant if the application is approved.
 - (4) If the application is rejected, sufficient reason shall be provided.
- (b) The measures according to sub-section (a) *[sic!]* shall be in effect for 6 months if the Rights Owner does not request a shorter period.
66. (a) The director general of the customs department shall, after the application according to section 65 *[sic!]* has been approved or after a relevant discovery by the customs department, suspend the transport of the imported items if there is sound evidence that they infringe a Copyright or Related Right. The applicant and the importer shall be immediately notified of such suspension.
- (b) The director general of the customs department shall allow the applicant and the importer to examine, without disclosing confidential information, the items whose transport is suspended in order to prove the allegation made by the applicant.
67. (a) If, after having been notified of the suspension, the applicant does not take action within 15 working days, or if the Intellectual Property Rights Court does not notify the director general of the customs department that further time is required, the suspension shall be lifted. The director general of the customs department has the discretion to extend, prior to its expiry, the initial 15 working days period by another 15 working days.
- (b) The specified period shall be 3 days if the items are perishable.
68. The importer may apply to the competent Intellectual Property Rights Court after receiving a temporary suspension notice in order to have it reviewed. The Court shall amend, revoke or confirm the suspension period within 30 working days after having received the importer's application.



69. If the Intellectual Property Rights Court decides that the items infringe a Copyright or Related Rights, the importer shall pay, to the customs department, the expenses for the maintenance, destruction or removal of such items.
70. If the Intellectual Property Rights Court decides that the items do not infringe a Copyright or Related Rights, the applicant shall pay, to the importer in the amount specified by the Court, damages that have occurred due to the wrongful suspension and detention of the items.
71. The provisions in this chapter shall not apply to Items that Infringe a Copyright or Related Rights if they are carried during travel in small quantities without a commercial purpose by an importer for personal use or if the imported items are specified in the rules.
72. The director general of the customs department may exchange information and co-operate with the World Customs Organisation, the directors general of the customs departments of other countries and organisations that collectively administer Copyright and Related Rights matters in respect of items related to the infringement of a Copyright or Related Rights.

Chapter 22

Functions of an Intellectual Property Rights Court with regard to Copyright or Related Rights infringements

73.
 - (a) Any Rights Owner aggrieved by a Copyright infringement may apply to an Intellectual Property Rights Court to take action according to sections 74 and 75.
 - (b) Any Rights Owner aggrieved by a Copyright infringement may apply to an Intellectual Property Rights Court to take action according to civil and criminal procedures.
74.
 - (a) An Intellectual Property Rights Court may, with regard to an application made according to section 73 sub-section (a) relating to the infringement of Copyrights or Related Rights, pass any of the following provisional orders as a remedy in civil procedure -
 - (1) Order prohibiting the import into the country of items that infringe a Copyright or Related Right, irrespective of their customs clearance;
 - (2) order to maintain evidence with regard to a Copyright and Related Right infringement in its original form;
 - (3) order amending, revoking or confirming a temporary suspension ordered by the relevant customs department.
 - (b) An Intellectual Property Rights Court may request the following from the applicant in order to pass a provisional order -



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- (1) Sufficient evidence that the applicant has an interest in the matter and his rights are being infringed or potentially infringed;
 - (2) submission of adequate security to prevent an abuse of the temporary action.
 - (c) The Intellectual Property Rights Court may, when taking temporary action in accordance with sub-section (a), instruct the applicant to provide further information in order to identify the items that are alleged to infringe a Copyright or Related Rights.
 - (d) The Intellectual Property Rights Court shall lift or make ineffective, without prejudice to section 75 sub-section (b), the provisional order made according to sub-section (a) of section 74 and sub-section (a) of section 75 upon a corresponding request from the applicant if no legal proceedings have been commenced within the period specified by the court or, if no period has been specified, after 30 working days from the date of the provisional order.
 - (e) An Intellectual Property Rights Court may order the applicant to pay reasonable and adequate compensation to the defendant for damages incurred due to the provisional order requested by the applicant if the provisional order is revoked or terminated by the Court due to an act or omission of the applicant or if the Court discovers that the Copyright or Related Right is not infringed or potentially infringed.
75. (a) An Intellectual Property Rights Court may pass a unilateral provisional order in the following circumstances -
- (1) If there is delay that may cause damages to the Right Holder that cannot be remedied; or
 - (2) if evidence is at risk of being destroyed.
- (b) If the Intellectual Property Rights Court passes a unilateral provisional order -
- (1) It shall notify the provisional order to the defendant promptly without delay.
 - (2) Enforce the provisional order if the defendant does not react within the period specified by the Court or, if no period is specified, within 30 working days after the date of the notice.
- (c) Shall hear and examine both parties again within a reasonable period of time upon a request made by the defendant in order to amend, revoke or confirm the provisional order.



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76. (a) An Intellectual Property Rights Court may pass any of the following orders with regard to a Copyright and Related Rights infringement with regard to sub-section (b) of section 73, without prejudice to civil law and the Code of Civil Procedure -
- (1) Order prohibiting the Copyright or Related Rights infringement, including the import of items that infringe a Copyright or Related Rights, irrespective of customs clearance.
 - (2) (aa) Order the infringer to pay damages to the aggrieved person due to a Copyright or Related Rights infringement; or order the infringer to pay the amount claimed by the aggrieved person, an amount equivalent to the profit achieved through the infringement, or both.
(bb) Order the infringer to pay the expenses of the aggrieved person, including legal costs.
 - (3) order to remove from commercial circulation or destroy, without any compensation, the items that infringe a Copyright or Related Right in order to prevent any damage to the Right Holder;
 - (4) order to remove from commercial circulation or destroy the equipment used for the production of items that infringe a Copyright or Related Right.
- (b) The Intellectual Property Right Court shall attempt to balance the scope of the order passed according to sub-section (a), paragraphs (3) and (4) with the scope of the infringement, and consider the interest of other interested parties.
77. If a person is found to have falsely claimed that his/her Copyright or Related Right was infringed, the Intellectual Property Rights Court may order him/her to pay damages to the defendant who was wrongly accused by this claim in addition to legal costs, lawyer fees and other costs incurred by the defendant.
78. (a) An Intellectual Property Rights Court may, without prejudice to the provisions in other laws in force, while protecting confidential information, order the defendant to submit evidence if -
- (1) the Right Holder has submitted sound evidence to sufficiently support his/her claim; and
 - (2) he/she shows convincingly that the defendant is in possession of sound evidence supporting the Right Holder's claim.



- (b) In case of an infringement without sufficient basis, the Intellectual Property Rights Court may, based on the pleadings and the evidence submitted by the aggrieved person and the infringer, pass an initial or final decision in the following circumstances -
- (1) Access to required information was denied;
 - (2) the required information cannot be delivered within reasonable time;
 - (3) significant obstacle to a procedure relating to an enforcement action.
79. If there is a fine attached to an offence under this law, the court may order the infringer to pay the whole or part of the fine to the aggrieved person as compensation.
80. If both civil and criminal proceedings are commenced in the same matter, the Intellectual Property Rights Court may set off the fines imposed in the criminal proceeding according to section 79 with the damages ordered to be paid by a judgment, decree or order in the civil proceeding.
81. The Intellectual Property Rights Court may apply the provisions of the Evidence Act, Code of Criminal Procedure, Code of Civil Procedure and other laws in force if procedures concerning the infringement of Copyrights and Related Rights that are not explicitly set forth in this law.

Chapter 23 **Offences and punishments**

82. Anyone found guilty of any of the following acts shall be sentenced to imprisonment for a term not exceeding 3 years, to a fine of at least Ks. 1,000,000, or to both.
- (a) Without authorisation by the Rights Owner, for commercial purposes -
- (1) Direct or indirect Reproduction, Broadcasting and publishing of a Copyright or Related Right-protected work;
 - (2) possession of, or trading in, items that infringe Copyright and Related Right;
 - (3) import of items that infringe a Copyright or Related Rights into Myanmar;
 - (4) doing an act prohibited in sections 43 and 44.
- (b) Possession of equipment that is used or can be used mainly for the production of items that infringe Copyright and Related Right.



83. Anyone found guilty of having committed the same act made under section 82 after having been sentenced, shall be sentenced to imprisonment for a term from 3 years to 10 years, and in addition to a fine not exceeding 10,000,000.
84. Anyone found guilty of any of the following acts shall be sentenced to imprisonment for a term not exceeding 1 year, to a fine not exceeding Ks. 2,000,000, or to both.
- (a) Wrongful issuance of Copyright or Related Rights registration certificate or instruction to do so;
 - (b) Wrongful recording of Copyright or Related Rights registration or instruction to do so.
85. Anyone found guilty of having aided or abetted in the commission of an offence according to this law shall be sentenced to the sentence that is specified for this offence.

Chapter 24 Miscellaneous

86. A Literary and Artistic Work or related work shall be considered to be in the public domain after the expiry of the protection period according to this law, provided that the reputation and moral rights of the Author shall not be affected, although anyone is able to use the literary or art work without authorisation from the Author or Rights Owner.
87. A Copyright protected according to the Myanmar Copyright Act 1914 shall be subject to the protection and the protection period of this law.
88. The Related Rights of Performers, Phonogram Producers and Broadcasting organisations from before the effective date of this law shall be protected according to chapter 14 of this law.
89. The provisions of this law shall not apply to a contract for works, Performances, Phonograms and broadcasts concluded before the effective date of this law.
90. Copies of a Reproduced Work made without the authorisation of the Copyright Owner or Related Rights Owner, but according to the law before the effective date of this law may be distributed to the public within two years from the effective date of this law.
91. Copies of a Copyright or Related Rights registration certificate, documents and evidentiary materials authenticated by the Registration Officer may be submitted to the court as evidence.
92. The court may pass an appropriate administrative order to arrest, confiscate as public property, destroy or otherwise deal with items that infringe a Copyright or Related Right or equipment used in an infringement.



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93. Notwithstanding sub-section (a) of section 18, a Literary and Artistic Work or related work may be used for documents or measures with regard to public safety, administration, legislation or judiciary matters.
94. Offences in this law are cognizable offences.
95. Disputes concerning Copyrights or Related Rights between interested parties may be solved by mediation or arbitration or in a lawsuit.
96. The Ministry shall act as the office of the Agency and cover the expenses of the Central Committee and the Agency in order to implement the provisions of this law.
97. The Ministry shall specify, with the consent of the Union government, the salary and allowances of the members in the Central Committee and the Agency who are not civil servants.
98. The regular term of office under this law of a Union level person shall be the same as the term of office of the president.
99. The Ministry may form departments and sub-departments and assign their functions based on Intellectual Property Rights sectors in order to perform the functions of the Agency.
100. The Central Committee and the Agency established in accordance with this law shall be competent for all Intellectual Property Rights laws.
101. With regard to the implementation of the provisions of this law -
 - (a) The Union Supreme Court may issue rules, regulations, notifications, orders, directives and procedures.
 - (b) The Ministry and relevant Ministries -
 - (1) May issue rules and regulations with the consent of the Union Government.
 - (2) May issue notifications, orders, directives and procedures.
 - (c) The relevant ministry for custom may issue rules and regulations with the consent of the Union Government.
 - (d) The Agency and Department may issue notifications, orders and procedures with the consent of the Ministry.
102. The Myanmar Copyright Act 1914 is repealed by this law.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

I hereby signed this law according to the constitution of the Republic of the Union of Myanmar.

Win Myint
President
The Republic of the Union of Myanmar

About Lincoln Legal Services (Myanmar) Limited

Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

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