

INNOVATIONS IN COPYRIGHT

The new amendment bill

By
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A draft bill to amend the Copyright Act 98 of 1978 was published in the *Government Gazette* on 28 June 1991.¹ If passed, it will bring about substantial changes to the Copyright Act and introduce some important innovations. For the moment, it has been published for general comment by interested persons prior to its submission to Parliament. In this article I discuss some of its more significant provisions and the effect that they will have on the law of copyright in South Africa.

Computer programs²

The most important innovation introduced by the bill is the recognition of computer programs as a separate and distinct category of work eligible for copyright. Provision is made for such programs to be dealt with as a species of copyright work *sui generis*. In the past our courts, in keeping with the approach adopted in many foreign countries, have regarded computer programs for copyright purposes as a type of 'literary work'.³ To treat a computer program in this way is not entirely satisfactory, however, for the provisions of the law of copyright pertaining to literary works have been framed over the years with written texts in mind, and the peculiarities of computer programs are such that the garb of literary works does not fit them comfortably.

In the explanatory memorandum published together with the bill the statement is made that the notion of dealing with a computer program as a separate category of work was inspired by the model law for the protection of computer programs published by the World Intellectual Property Organization (WIPO) some years ago. In adopting this approach, the government has not followed the example of those countries (for example Britain) that have given recognition to computer software

as a distinct species of work but have nevertheless continued to categorize it as falling within the genus 'literary work'. The government's approach is arguably the correct one; in adopting it, the draftsman of the bill has taken note of the development of cinematograph films and sound recordings as categories of work *sui generis*. Cinematograph films were originally protected as a species of dramatic work, while sound recordings were protected as a type of musical work, but over the years they evolved into categories of their own, which were first accorded recognition in the Copyright Act 63 of 1965.

The term 'computer program' is defined in the bill as 'a set of instructions that is fixed or stored in any manner and that can be used directly or indirectly in a computer in order to bring about a certain result'.⁴ The definition of 'cinematograph film' in s 1(1) is to be amended to exclude from its ambit a computer program (as defined), and a similar amendment will be made to the definition of 'literary work'. Consequently, computer programs will no longer enjoy protection as cinematograph films or literary works, but until work-in-progress in the development of a computer program has reached the stage at which it falls within the definition of a computer program it can continue to be protected as a literary work. For instance, flow charts and other writings produced with a view to perfecting a computer

¹ See General Notice 576 GG 13328 of 28 June 1991.

² The American spelling of the word 'program' is used in the bill and is accordingly employed in this article.

³ See *Northern Office Micro Computers (Pty) Ltd v Rosenstein* 1981 (4) SA 123 (C), which is the leading South African case on this issue.

⁴ Clause 1(f).

The initial owner of the copyright in a computer program is the author

program are in that form capable of protection as literary works.

The 'author' of a computer program is defined in the bill as the person who first makes or creates the work; when, however, the work is made or created by two or more people in the course of their employment by another under a contract of service, the employer is the author.⁵ A computer program will be eligible for copyright in South Africa if it was made by a 'qualified person'⁶ or if it was first published or made in South Africa.⁷ The same will apply to a computer program first published or made in a foreign country whose works are protected in South Africa on a reciprocal basis in terms of s 37 of the Copyright Act.⁸ As with most other categories of work, the initial owner of the copyright in a computer program is the author,⁹ unless one of the general exceptions to this rule applies.¹⁰

The period of protection of a computer program will be fifty years from the end of the year in which the work is lawfully made available to the public with the consent of the copyright owner or, if that does not occur within fifty years from the making of the work, fifty years from the end of the year in which the work is made.¹¹

Reserved exclusively to the owner of copyright in a computer program will be the following acts:

- ☐ The reproducing of the work in any manner or form.
- ☐ Making of adaptations of the work.
- ☐ The reproducing or publishing of an adaptation of the work.¹²

An 'adaptation' in relation to a computer program will include a version of the work in a programming language, code or notation different from that of the original program, or a fixation of the work in or on a medium different from the medium of fixation of the original.¹³ The copyright in a computer program, like that in other works eligible for copyright, will be infringed by unauthorized importation of, trade in or distribution of infringing copies in the knowledge that the making of the goods in question infringed copyright.¹⁴

A person will also infringe copyright in a computer program if he knowingly uses an infringing copy of the program.¹⁵ The copyright in a computer program will not, however, be infringed by the making of a single back-up copy if the person making the copy is in lawful possession of a legitimate copy of the program. The back-up copy may, however, be possessed and used only for as long as it remains lawful for the holder to possess and use the legitimate copy of the program.¹⁶ If and when the user licence is terminated, therefore, the back-up copy must be destroyed.

Certain other facets of the protection granted to computer programs are dealt with below.

Compulsory licences

The Copyright Act provides for a 'Copyright Tribunal' constituted in terms of s 29(1)¹⁷ to grant compulsory licences in certain instances to persons who seek licences but have been unable to obtain them in the normal way from the holders of copyright. The Copyright Tribunal is presently empowered to grant only certain types of licence, for a restricted range of works. The new bill, however, makes provision for the Copyright Tribunal to be at large to grant any type of licence in relation to any category of work, including computer programs. This outcome is achieved by the deletion of the definition of the term 'licence' from s 1(1) of the Act by clause 1(l) of the bill, which also makes it clear that the Copyright Tribunal has jurisdiction to override a refusal by any type of licensor, including licensing bodies and other persons, to grant a licence.¹⁸

At present s 36(1) of the Act provides that decisions of the Copyright Tribunal will be final subject only to the right to take them on review to the Supreme Court of South Africa. The bill, however, provides for a right of appeal to the Supreme Court against a decision of the Copyright Tribunal.¹⁹

⁵ Clause 1(c), adding a new para (h) to the definition of 'author' in s 1(1) of the 1978 Act.

⁶ Section 3(1) read with s 2(1) of the Act after its amendment by clause 2(b) of the bill. (Clause 2(b) adds the item 'computer programs' to the list of works eligible for copyright in terms of s 2(1).) A 'qualified person' is defined in s 3(1) to mean (a) if an individual, a person who is a South African citizen, domiciliary or resident or (b) if a juristic person, a body incorporated under the laws of the Republic.

⁷ Clause 4, which adds a new para (f) to s 4(1) of the Act.

⁸ Section 37(1)(a) of the Act as amended by clause 29(a) of the bill will empower the Minister of Economic Affairs and Technology to apply the provisions of the Act to computer programs that have originated in foreign countries which afford similar protection to South African works.

⁹ Section 21(1)(a) of the Copyright Act.

¹⁰ If the work is made during the course of employment or under the direction or control of the state, or if there has been an assignment of copyright, the employer, the state or the assignee, as the case may be, will be the owner. Generally on the ownership and assignment of copyright, see ss 21 and 22 respectively of the Act.

¹¹ Section 3(2)(b) of the Act as amended by clause 3(c) of the bill.

¹² Clause 10 of the bill, adding a new s 11B to the Act.

¹³ Section 1(1) of the Act as amended by clause 1(a) of the bill.

¹⁴ Section 23(2)(a)-(c) of the Act.

¹⁵ Clause 20(b) of the bill, which adds a new para (d) to s 23(2) of the Act.

¹⁶ Section 19B(2) of the Act as inserted by clause 17(b) of the bill.

¹⁷ In terms of that provision the judge or acting judge who is from time to time designated as Commissioner of Patents in terms of s 8 of the Patents Act 57 of 1978 acts also as the Copyright Tribunal under chap 3 of the Copyright Act.

¹⁸ Clause 27, amending s 30 of the Act.

¹⁹ Clause 28, substituting s 36 of the Act, read with s 76 of the Patents Act and ss 20 and 21 of the Supreme Court Act 59 of 1959.

These provisions relating to compulsory licences effect far-reaching changes to the law. In a sense, a fundamental inroad is made into the right of the copyright owner to control the use of his work. Any licence granted by the Copyright Tribunal must, however, be subject to the payment of appropriate royalties, and the copyright holder has the right to oppose the grant of a compulsory licence in regard to his work.

Parallel imports

Under the law as it stands a copyright holder can preclude trading in so-called parallel imports of his works only in certain circumstances:²⁰ to do so, he must be able to show that the goods in question (sometimes referred to as 'grey goods') constitute 'infringing copies' of the copyrighted work and that the person dealing in the grey goods knew that they were infringing copies in the eyes of South African law. This they will be if their manufacture in South Africa constituted unauthorized reproduction or, for imported goods, if their manufacture would have done so had they been made in South Africa.

Trading in grey goods without the authority of the copyright holder was held to constitute copyright infringement in *Video Parktown North (Pty) Ltd v Paramount Pictures Corporation et al.*²¹ In that case the infringer traded in copies of the films 'Grease' and 'Star Trek — The Motion Picture' made by Paramount's British licensee, which had been authorized to make copies of the film on videotape in Europe but not in South Africa, after the infringer had been informed that the tapes in question had not been made by a licensee for South Africa and were therefore infringing copies. In situations of this type the crucial issue is the geographical scope of the rights held by the maker of the copies.

The new bill effects a change to this situation, focusing attention instead on the rights held by the importer of the grey goods: dealing in parallel imports will constitute infringement of copyright if the importer does not hold the right to reproduce the work in question in South Africa.²² The rights of the person who made the copy will therefore no longer be relevant.

Payment of notional royalties in lieu of damages

A controversial and much-debated issue in the law of copyright over the past decade has concerned whether a person whose copyright has been infringed is entitled to relief by way of an 'account of profits' as an alternative to compensation for the actual damage he has suffered. The remedy of an account of profits derives from British law: the infringer renders an account of the profits he has made through his dealings in the infringing goods and then

An indestructible record

'I am . . . sceptical of the first applicant's assertion that he feared destruction or secret- ing of all the second, third and fourth [respon- dent companies'] documents. One cannot destroy all the documents of a company without getting oneself into serious trouble. Companies must by statute have certain books. Everyone knows what kind of docu- ments ought to be there.'

— *per Conradie J in Hall & another v Heyns & others* 1991 (1) SA 381 (C) at 390H-I.

pays the profits so disclosed to the copyright holder. In the *Video Parktown North* case²³ the court held that this remedy forms no part of South African copyright law, but the decision has been criticized and its correctness challenged.²⁴ The new bill effectively eliminates from s 24(1) of the Act the rendering of accounts of profits and introduces in its stead the remedy of payment by the infringer of notional royalties.²⁵ As with an account of profits, relief by way of notional royalties is an alternative to a claim for damages.

The bill provides that in awarding relief by way of notional royalties, the court must take into account the extent to which the defendant has infringed the rights in question, the measure of royalties or licence fees generally payable for the exercise of those rights and 'all such other factors to which the court may have regard' in order to ensure that a reasonable remuneration is paid to the copyright owner. Procedurally, the court may order the holding of an inquiry to ascertain the amounts payable by way of notional royalties and prescribe appropriate procedures for conducting the inquiry.²⁶ Neither damages nor notional royalties will be payable, however, if the defendant was unaware and had no reasonable

²⁰ Generally on parallel importation, see O H Dean 'Parallel Importation — and Trade-mark Infringement' (1987) 17 *BML* 3, P Q R Boberg 'Parallel Imports: Is a Trade Mark Infringed?' (1987) 17 *BML* 16 and Bernard Martin 'Exclusive Distributorship of Trade-marked Goods: Worthwhile Work or Will-o'-the-wisp?' (1990) 19 *BML* 191.

²¹ 1986 (2) SA 623 (T).

²² Clauses 1(k) and 20(b) of the bill, amending the definition of 'infringing copy' in s 1(1) and the provisions of s 23(2) respectively of the Act.

²³ Note 21 above.

²⁴ See Owen H Dean 'Account of Profits in South African Copyright Law' (1986) 103 *SALJ* 103.

²⁵ Clause 21(a).

²⁶ Clause 21(b), which inserts a new subsec (1A) into s 24 of the Act.

The major innovation in this respect is the concept of 'fair dealing'

grounds for suspecting that copyright subsisted in the work in question.²⁷ Notice of proceedings for notional royalties must be given to the copyright owner or any exclusive licensee or sublicensee who is not already a party to the proceedings.²⁸ In providing for relief by way of notional royalties, the government is following the example of the Patents Act 57 of 1978 into which a similar remedy was introduced in 1988.²⁹

Broadcasts and programme-carrying signals

The Act as it now stands affords protection in general only to broadcasts made and programme-carrying signals emitted by the South African Broadcasting Corporation.³⁰ It empowers the Minister of Economic Affairs and Technology to extend protection to the broadcasts and programme-carrying signals of other organizations,³¹ although he has not to date used those powers. The bill provides, however, for broadcasts made and programme-carrying signals emitted by any qualified person or first made or emitted from South Africa or a proclaimed country to enjoy protection,³² and for the maker of the broadcast or the emitter of the signal to be the initial owner of the copyright.³³

The provisions of the Act requiring a work to exist in a material form before it can enjoy copyright protection³⁴ are amended by the bill to cater for broadcasts and programme-carrying signals,³⁵ in relation to which such a provision is clearly inappropriate. The bill provides that a broadcast will be deemed to have been made at the time when it was first broadcast and a programme-carrying signal at the time when it was first transmitted by a satellite.³⁶

The bill also introduces a definition of the expression 'programme-carrying signal': 'a signal embodying a program which is emitted and passes through a satellite'.³⁷ The bill thus makes it clear that a signal transmitted to and relayed by a satellite becomes a programme-carrying signal only once it has passed through the satellite; on the so-called 'up-leg' of the transmission to the satellite, however, it will qualify as a broadcast.

Works of craftsmanship

In 1983 the definition of 'artistic work' in s 1(1) was broadened to include, in addition to works of artistic craftsmanship, works of craftsmanship of a technical nature,³⁸ which are in essence prototypes of industrial articles. In *Bress Designs (Pty) Ltd v G Y Lounge Suite Manufacturers (Pty) Ltd*³⁹ Van Dijkhorst J held, however, that the prototype of a couch was neither a work of artistic craftsmanship nor a work of craftsmanship of a technical nature, for such a prototype was not generally made with an aesthetic (as opposed to a utilitarian) purpose in mind, and the word 'technical' had to be

interpreted to refer to the mechanical arts and applied sciences, which did not include the skills applied in manufacturing a couch.

The bill will amend para (c) of the definition of 'artistic work' to cover all works of craftsmanship not falling within the other paragraphs of the definition.⁴⁰ This change will overcome the difficulty perceived in the *Bress Designs* case, making it clear that works of craftsmanship of all kinds are eligible for copyright protection. The prototype of an article of furniture will, it seems, therefore qualify as an artistic work in terms of the new definition.

General exceptions to copyright protection

The bill reformulates certain of the exceptions to copyright protection contained in ss 12–19A of the Copyright Act. The major innovation in this respect is that the concept of 'fair dealing', which was embodied in the Copyright Act of 1965 but omitted from the present Act, will be reintroduced into s 12.⁴¹ In terms of the new provisions no fair dealing with a literary or musical work for the purposes of research, private study, domestic use of the person dealing with the work, criticism, review or reporting in the written media, a broadcast or a cinematograph film of current events will constitute an infringement of copyright in the work, provided that sufficient acknowledgement is given when required.⁴² The concession regarding fair dealing for purposes of research, private study and domestic use, which may

²⁷ Clause 21(c), substituting s 24(2) of the Act.

²⁸ Proviso to s 25 of the Act, inserted by clause 22 of the bill.

²⁹ See s 65(6) of the Patents Act, inserted by s 3(c) of the Patents Amendment Act 76 of 1988.

³⁰ See paras (e) and (f) of the definition of 'author' read with the definition of 'Corporation' in s 1(1).

³¹ Section 37(1)(e).

³² See notes 6, 7 and 8 above and the text to them.

³³ Clause 1(c) of the bill, which amends the definition of an 'author' in s 1(1) of the Act in relation to broadcasts and programme-carrying signals, and clause 29(b), which substitutes s 37(1)(e).

³⁴ Sections 2(2) and 44.

³⁵ See clauses 2(c) and 34 respectively.

³⁶ Section 44(2) and (3), inserted by clause 34 of the bill.

³⁷ Clause 1(r).

³⁸ See para (c) of the definition of an 'artistic work' in s 1(1) of the Act as substituted by s 1(a) of the Copyright Amendment Act 66 of 1983. The Act uses the term 'craftsmanship', a typographical error for 'craftsmanship'.

³⁹ 1991 (2) SA 455 (W). On the copyright aspects of the case, see Owen Salmon 'The Case of the Stripped-down "Sittable"' (1990) 20 BML 73 at 74–5 and Owen H Dean 'Copying Industrial Products — III: Sitting on a Stolen Design: The Copyright Angle' (1991) 20 BML 141.

⁴⁰ Clause 1(b).

⁴¹ Clause 11(a).

⁴² Acknowledgement must be made in published criticisms or reviews and reports of current events.

include the making of copies, does not apply to cinematograph films and sound recordings.⁴³ Home copying of videotapes and records is therefore not permitted.

On the other hand, the concession does apply to broadcasts,⁴⁴ with the result that 'time-shifting' of television programmes is permitted. As with cinematograph films and records, however, the concession does not apply to computer programs.⁴⁵

Presumptions and proof in court proceedings

Section 26 of the Act sets out various presumptions of fact and law designed to assist in proving that an infringement of copyright has taken place. In several instances the presumptions that hitherto applied only in criminal proceedings will operate in civil proceedings as well.⁴⁶

In terms of a new presumption, if it is proved in an infringement action that an allegedly infringing act was performed without the authority of an exclusive licensee under copyright, the act in question will be presumed also to have been performed without the authority of the copyright owner, unless the contrary is proven.⁴⁷

The bill will also make it possible for evidence of the subsistence of copyright or of the title of any person in relation to copyright to be adduced by way of affidavit in any civil or criminal proceedings arising out of an alleged infringement.⁴⁸ At present evidence of this kind must generally be adduced orally by witnesses in court. The bill provides for the affidavit to be prima facie proof of the facts set out in it, and the court is given a discretion to cause the deponent to be subpoenaed to give oral evidence or to cause written interrogatories to be submitted to him for reply; the interrogatories and replies will then be admissible as evidence in the proceedings. These provisions will in many instances simplify the logistics of leading evidence — usually of a formal nature — in criminal prosecutions and civil actions, and ought greatly to facilitate the enforcement of copyright, for the expense and difficulty involved in adducing the evidence in question orally has often rendered the bringing of infringement proceedings impractical in the past, particularly when the work in question was of foreign origin.

Penalties

The maximum penalties for infringement of copyright presently stipulated in s 27 of the Act (a fine of R50 000 and ten years' imprisonment) will be abolished, and there will no longer be any ceiling on the total fine or period of imprisonment that a court may impose.⁴⁹ There will, however, still be a maximum penalty in relation to each infringing article to which an offence relates.⁵⁰ The penalties for dealing in infringing copies will also be made

The lifeblood of commerce

It has often been said that competition is the lifeblood of commerce. It is the availability of the same, or similar, products from more than one source that results in the public paying a reasonable price therefor. Hence competition as such cannot be unlawful, no matter to what extent it injures the custom built up by a trader who first marketed a particular product or first ventured into a particular sphere of commerce. But . . . competition may be rendered unlawful by the manner in which a competitor conducts his trade etc.

'As far as I am aware, it has never been suggested that the exploitation of a market established by a competitor for a particular product, or type of product, is in itself a form of unlawful competition. On the contrary, it appears to be generally accepted that, in the absence of statutory protection, the published idea or concept of a trader on which his product is based, may be freely taken over by a competitor even if the trader has already through his efforts built up a demand for his product . . . Take the case where a manufacturer was the first to conceive the idea of marketing beer in cans. His brand of beer so marketed proved to be immensely popular with the result that his competitor also began marketing his own beer in cans. It can surely not be contended that the competitor acted unlawfully merely because of his exploitation of a demand created by the manufacturer's efforts and originality.'

— *per Van Heerden JA in Taylor & Horne (Pty) Ltd v Dentall (Pty) Ltd 1991 (1) SA 412 (A) at 421J-422E.*

⁴³ Clauses 14 and 15, which substitute ss 16 and 17 respectively of the Act.

⁴⁴ Clause 16, substituting s 18 of the Act.

⁴⁵ Clause 17(b), inserting a new s 19B into the Act.

⁴⁶ See, for example, clause 23(c), (d), (f) and (g) of the bill amending s 26(3), (4), (6) and (7) respectively of the Act.

⁴⁷ Clause 23(i), inserting a new s 26(11) in the Act.

⁴⁸ Clause 23(j), inserting a new s 26(12) in the Act.

⁴⁹ Clause 24(a), which deletes the proviso to s 27(6).

⁵⁰ In s 27(6)(a) and (b) these are stated to be a fine of R5 000, imprisonment for three years or both for each infringing article on a first conviction; the corresponding penalties that may be imposed on a second or subsequent conviction are a fine of R10 000, imprisonment for five years or both for each article. On an application of s 1(2) of the Adjustment of Fines Act 101 of 1991 read with s 92(1)(a) and (b) of the Magistrates' Courts Act 32 of 1944, however, the maximum fines that may be imposed for copyright infringement are (at present) R12 000 for each infringing article on a first conviction and R20 000 for each such article in the event of a further conviction.

Where a company 'resides'

'Since "residence" is a concept based on the habits of a natural man, the notion of a company's "residence" . . . is necessarily a somewhat abstruse and nebulous one. In so far as the law requires the concept to be assigned to a corporation, however, it seems to me that the idea of the registered office of a domestic South African company as its "home" represents a juristic abstraction which is by no means unsound in principle

'In [*Dairy Board v John T Rennie & Co (Pty) Ltd* 1976 (3) SA 768 (W)] Eloff J expressed the further opinion that, if such a company's principal place of business is situated elsewhere than at its registered office, then the company might in law also "reside" at the latter place. On this point, too, . . . I agree with Eloff J

' . . . [I]t [has been] held . . . that a company resides at the place where its general administration is located, ie at the seat of its central management and control, from where the general superintendence of its affairs takes place, and where, consequently, it is said that it carries on its real or principal business The principle is accordingly well established in our law, and I can see no warrant for departing from it. I accept, furthermore, that it applies in respect of matters of jurisdiction, with the result that the court of the area where the company's place of central control is situated will have jurisdiction to entertain a monetary claim against the company on the ground that it is resident within the court's area of jurisdiction. On this approach it follows that, if the company's registered office is located elsewhere than at its place of central control, a finding that the company is resident at the place of its registered office for the purposes of jurisdiction must necessarily involve an acceptance of the principle that a company can for such purposes (ie in regard to questions of jurisdiction) be resident at two places at the same time. In my judgment, the cases that I have mentioned do not preclude the acceptance of such a principle, . . . and I consider that this court [sc the Appellate Division of the Supreme Court] should now approve it. Accordingly I find that a company can and does have a dual residence for jurisdictional purposes, where its central control and its registered office are located at different places.'

— *per Hoexter JA in Bisonboard Ltd v K Braun Woodworking Machinery (Pty) Ltd* 1991 (1) SA 482 (A) at 493B–C, 495C–D, 496A–F.

applicable to related offences, for example being in possession of a plate used for making infringing copies or permitting a place of entertainment to be used for an infringing performance. At present those offences carry much lower penalties.⁵¹

The power of the court to prohibit habitual infringers of copyright in cinematograph films from conducting business in those films will be abolished.⁵²

Moral rights

Section 20 protects the rights of an author to claim authorship in a literary, musical or artistic work or cinematograph film, and to object to mutilations or distortions of his work that would prejudice his honour or reputation. These are termed '[r]esiduary rights' in the Act, and will be renamed '[m]oral right[s]' by clause 18 of the bill. (The new appellation is the term used internationally.) In addition, clause 18 of the bill provides that any infringement of the author's moral right will be deemed to be an infringement of copyright, with the author being afforded the rights of a copyright owner.

Editorial changes

The structure and wording of parts of the Copyright Act are amended in the bill to make them more coherent, effect grammatical improvements, clarify the meaning and eliminate ambiguity, inconsistencies, discrepancies and anachronisms. Amendments of this kind constitute, essentially, a tidying-up operation and generally do not bring about substantive changes to the law. For example, the provisions of s 42 of the Act, which amount to no more than a definition of the term '[p]ublication', are transferred by clause 1(t) of the bill to s 1 of the Act (the definition section), and s 42 will be deleted by clause 32 of the bill. Much of the bill consists of provisions of this type.

Conclusion

Although the Copyright Act of 1978 has already been amended six times since it came into force on 1 January 1979, the new bill is the first attempt to overhaul the Act as a whole. The proposed amendments are generally welcome and, if adopted, will enable the Copyright Act adequately to serve those seeking copyright protection for the foreseeable future. And it is pleasing to see that the government has not chosen to pass an entirely new Copyright Act, which inevitably necessitates the enactment of complicated transitional provisions.

⁵¹ See s 27(7), which will be deleted by clause 24(b) of the bill.

⁵² See clause 24(c) of the bill, which will delete s 27(8). Section 27(8) was introduced by s 11(c) of the Copyright Amendment Act 52 of 1984.