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New Zealand.



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AN ACT relating to Copyright.

Title.

[22nd November, 1913.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Copyright Act, 1913, and shall commence on the first day of April, nineteen hundred and fourteen. Short Title and commencement.

2. (1.) In this Act, unless the context otherwise requires,— Interpretation.

“Literary work” includes maps, charts, plans, tables, and compilations:

“Dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting-form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting-form or the combination of incidents represented gives the work an original character:

“Artistic work” includes works of painting, drawing, sculpture, and artistic craftsmanship, and architectural works of art, and engravings, and photographs:

“Work of sculpture” includes casts and models:

“Architectural work of art” means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure; provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction:

“Engravings” include etchings, lithographs, woodcuts, prints, and other similar works not being photographs:

“Photograph” includes photo-lithograph and any work produced by any process analogous to photography:

“Cinematograph” includes any work produced by any process analogous to cinematography:

“Collective work” means—

(a.) An encyclopædia, dictionary, year-book, or similar work;

(b.) A newspaper, review, magazine, or similar periodical; and

(c.) Any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated:

“Infringing,” when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made or imported in contravention of the provisions of this Act:

“Performance” means any acoustic representation of a work, and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument:

“Delivery,” in relation to a lecture, includes delivery by means of any mechanical instrument :

“Plate” includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls, or other contrivances for the acoustic representation of the work are or are intended to be made :

“Lecture” includes address, speech, and sermon :

“Court of summary jurisdiction” means a Magistrate or two or more Justices exercising jurisdiction under the Justices of the Peace Act, 1908.

(2.) Except for the purposes of infringement of copyright, a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public without the consent or acquiescence of the author, his executors, administrators, or assigns.

(3.) For the purposes of this Act a work shall be deemed to be first published in New Zealand notwithstanding that it has been published simultaneously in some other place, unless the publication in New Zealand is colourable only and is not intended to satisfy the reasonable requirements of the public ; and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days, or such longer period as may for the time being be fixed by the Governor in Council.

(4.) Where, in the case of an unpublished work, the making of a work has extended over a considerable period the conditions of this Act conferring copyright shall be deemed to have been complied with if the author was during any substantial part of that period a British subject or resident in New Zealand.

(5.) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in New Zealand if he is domiciled therein.

PART I.

COPYRIGHT.

Rights.

3. (1.) Subject to the provisions of this Act, copyright shall subsist in New Zealand for the term hereinafter mentioned in every original literary, dramatic, musical, and artistic work if—

(a.) In the case of a published work, the work was first published in New Zealand ; and

(b.) In the case of an unpublished work, the author was at the date of the making of the work a British subject or resident in New Zealand ;

but in no other works, except so far as the protection conferred by this Act is extended by the Governor in Council pursuant to this Act.

(2.) For the purposes of this Act "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever; to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public; and if the work is unpublished, to publish the work or any substantial part thereof; and shall include the sole right—

- (a.) To produce, reproduce, perform, or publish any translation of the work;
- (b.) In the case of a dramatic work, to convert it into a novel or other non-dramatic work;
- (c.) In the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work by way of performance in public or otherwise;
- (d.) In the case of a literary, dramatic, or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered;

and to authorize any such acts as aforesaid.

(3.) For the purposes of this Act "publication" in relation to any work means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art, but for the purposes of this provision the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.

4. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical, or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act or of any other statutory enactment for the time being in force; but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

No copyright except as provided by this Act.

5. (1.) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright:

Infringement of copyright.

Provided that the following acts shall not constitute an infringement of copyright:—

- (a.) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary;
- (b.) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work;
- (c.) The making or publishing of paintings, drawings, engravings, or photographs of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings, or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art;

- (d.) The publication in a collection, mainly composed of non-copyright matter, *bona fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists :

Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged :

- (e.) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer; but nothing in this paragraph shall affect the provisions in paragraph (a) as to newspaper summaries :

- (f.) The reading or recitation in public by one person of any reasonable extract from any published work.

(2.) Copyright in a work shall also be deemed to be infringed by any person who—

(a.) Sells or lets for hire, or by way of trade exposes or offers for sale or hire ; or

(b.) Distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright ; or

(c.) By way of trade exhibits in public ; or

(d.) Imports for sale or hire into New Zealand,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made in New Zealand.

(3.) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.

Term of copyright.

6. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death :

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the commencement of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner, to or for the benefit of the owner of the copyright, royalties in respect of all copies of the work sold by him, calculated at the rate of ten per centum on the price at which he publishes the work ; and for the purposes of this

proviso the Governor may, by Order in Council gazetted, make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if he thinks fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

7. If at any time after the death of the author of a literary, dramatic, or musical work which has been published or performed in public a complaint is made to the Judicial Committee of the Privy Council that the owner of the copyright in the work has refused to republish or to allow the republication of the work, or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a license to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as ~~the said Court~~ may think fit.

Compulsory
licenses.

REFER TO INSET APPENDED

8. (1.) Subject to the provisions of this Act the author of a work shall be the first owner of the copyright therein :

Ownership of
copyright, &c.

Provided that—

(a.) Where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person, and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright; and

(b.) Where the author was in the employment of some other person under a contract of service or apprenticeship, and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright; but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.

(2.) The owner of the copyright in any work may assign the right, either wholly or partially, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by license; but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent:

Provided that where the author of a work is the first owner of the copyright therein no assignment of the copyright, and no grant of any interest therein made by him (otherwise than by will) after the commencement of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termina-

tion of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void; but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work, or a license to publish a work or part of a work as part of a collective work.

(3.) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee as respects the right so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and the provisions of this Act shall have effect accordingly.

Civil Remedies.

9. (1.) Where copyright in any work has been infringed the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

(2.) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3.) In any action for infringement of copyright in any work the work shall be presumed to be a work in which copyright subsists, and the plaintiff shall be presumed to be the owner of the copyright unless the defendant puts in issue the existence of the copyright or, as the case may be, the title of the plaintiff; and where any such question is in issue, then—

(a.) If a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work:

(b.) If no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

10. All infringing copies of any work in which copyright subsists or of any substantial part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof.

11. Where proceedings are taken in respect of the infringement of the copyright in any work, and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work,

Civil remedies for infringement of copyright.

Rights of owner against persons possessing or dealing with infringing copies, &c.

Exemption of innocent infringer from liability to pay damages, &c.

the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for suspecting that copyright subsisted in the work.

12. (1.) Where the construction of a building or other structure which infringes, or which if completed would infringe, the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction to restrain the construction of such building or structure or to order its demolition.

Restriction on remedies in the case of architecture.

(2.) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or as impose summary penalties, shall not apply in any case to which this section applies.

13. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

Limitation of actions.

Summary Remedies.

14. (1.) Every person who knowingly—

- (a.) Makes for sale or hire any infringing copy of a work in which copyright subsists; or
- (b.) Sells or lets for hire, or by way of trade exposes or offers for sale or hire, any infringing copy of any such work; or
- (c.) Distributes infringing copies of any such work either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or
- (d.) By way of trade exhibits in public any infringing copy of any such work; or
- (e.) Imports for sale or hire into New Zealand any infringing copy of any such work,

Summary offences.

is liable on summary conviction to a fine not exceeding two pounds for every copy dealt with in contravention of this section, but not exceeding fifty pounds in respect of the same transaction, or, in the case of a second or subsequent offence, either to such fine or to two months' imprisonment.

(2.) Every person who knowingly makes or has in his possession any plate for the purpose of making infringing copies of any work in which copyright subsists, or who knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, is liable on summary conviction to a fine of fifty pounds, or, in the case of a second or subsequent offence, either to such fine or to two months' imprisonment.

(3.) The Court before which any such proceedings are taken may, whether the alleged offender is convicted or not, order that all copies of the work, or all plates in possession of the alleged offender which appear to it to be infringing copies or plates for the purpose of making infringing copies, be destroyed, or delivered up to the owner of the copyright, or otherwise dealt with as the Court may think fit.

15. Every person who for his private profit permits any theatre or other place of entertainment to be used for the performance in public of any musical or dramatic work without the consent of the registered owner of the sole right to perform or authorize the

Permitting unauthorized performances.

performance of the work in New Zealand, or any part of New Zealand where the theatre or place is situated, is liable on summary conviction to a fine of ten pounds, unless he was not aware and had no reasonable ground for suspecting that the performance would be an infringement of the right to perform or authorize the performance of the work.

Search-warrant.

16. (1.) Any Justice may, on the application of the registered owner of the copyright in any literary, dramatic, musical, or artistic work, or of the agent of such owner appointed in writing,—

(a.) If satisfied by evidence that there is reasonable ground for believing that infringing copies of the work are being sold or offered for sale, issue a warrant in accordance with the form prescribed authorizing any constable to seize the infringing copies and to bring them before a Court of summary jurisdiction :

(b.) If satisfied by evidence that there is reasonable ground for believing that infringing copies of the work are to be found in any house, shop, or other place, issue a warrant, in accordance with the form prescribed authorizing any constable to search, between sunrise and sunset, the place where the infringing copies are supposed to be, and to seize and bring them or any copies reasonably suspected to be infringing copies of the work before a Court of summary jurisdiction.

(2.) A Court of summary jurisdiction may, on proof that any copies brought before it in pursuance of this section are infringing copies of the work, order them to be destroyed, or to be delivered up, subject to such conditions, if any, as the Court thinks fit, to the owner of the copyright in the work.

17. (1.) The registered owner of the sole right to perform or authorize the performance of a musical or dramatic work in New Zealand or any part thereof, or the agent of such owner appointed in writing, may, by notice in writing in the prescribed form, forbid the performance in public of the work in infringement of his right, and require any person to refrain from performing or taking part in the performance in public of the work in infringement of his right ; and every person to whom a notice has been given in accordance with this section who performs or takes part in the performance in public of the work in infringement of the right of such owner is liable on summary conviction to a fine not exceeding ten pounds.

(2.) Every person who gives notice in pursuance of this section without just cause is liable on summary conviction to a fine of twenty pounds.

(3.) In any prosecution under the last preceding subsection the defendant shall be deemed to have given the notice without just cause unless he proves to the satisfaction of the Court that at the time of giving the notice he was the registered owner of the sole right to perform or authorize the performance of the work in New Zealand or any part thereof, or the agent of such owner appointed in writing, and had reasonable ground for believing that the person to whom the notice was given was about to perform or take part in the performance of the work in infringement of the right of such owner.

Owner of performing-right may forbid performance in infringement of right.

18. Where proceedings are instituted in any Court of summary jurisdiction, by or on behalf of the owner of the copyright in any work or the owner of the sole right to perform or authorize the performance of any work, in respect of any offence in infringement of his right, any fine imposed shall be paid to him by way of compensation for the injury sustained by him, but in any other case any fine imposed in respect of any offence against this Act shall be paid into the Consolidated Fund. Application of fines.

19. (1.) No proceedings shall be instituted in a Court of summary jurisdiction in respect of any offence against this Act after the expiration of six months from the date of the offence. Limitation of summary proceedings.

(2.) An appeal to the Supreme Court shall lie from any conviction or order (including any dismissal of any information, complaint, or application) of a Court of summary jurisdiction in respect of any offence or matter under this Act, and such appeal shall be made within the time and in the manner provided by regulations.

20. Sections fourteen to eighteen hereof shall not apply to any case to which section twelve hereof, relating to infringement of copyright in the case of a work of architecture, applies. Certain provisions not to apply to works of architecture.

Importation of Copies.

21. (1.) Copies made out of New Zealand of any work in which copyright subsists which if made in New Zealand would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Minister of Customs that he is desirous that such copies should not be imported into New Zealand, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be prohibited imports within the meaning of the Customs Law Act, 1908. For the purposes of this section notices given to the Commissioners of Customs and Excise of the United Kingdom, and communicated by them to the Minister of Customs, shall be deemed to have been given by the owner to the Minister of Customs. Importation of infringing copies.

(2.) Before detaining any such copies, or taking any further proceedings with a view to the forfeiture thereof, the Minister of Customs may require the regulations under this section, whether as to information, conditions, or other matters, to be complied with, and may satisfy himself in accordance with those regulations that the copies are such as are prohibited by this section to be imported.

(3.) There shall be publicly exposed in the office of the Collector of Customs at every port in New Zealand lists of all works in which copyright subsists and as to which the owner of the copyright, by himself or his agent, has duly given a notice to the Minister of Customs pursuant to subsection one hereof.

(4.) The Governor may, by Order in Council gazetted, make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section; and may by such regulations determine the information, notices, and security to be given, and the evidence requisite, for any of the purposes of this section, and the mode of verification of such evidence.

(5.) The regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(6.) The regulations may provide for the informant reimbursing the Minister of Customs all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section.

Repeal.

(7.) Section ninety-two of the Customs Law Act, 1908, and the first paragraph of the Third Schedule to the said Act (relating to the importation of prohibited books) are hereby repealed.

Special Provisions as to certain Works.

Works of joint authors.

22. (1.) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer; and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter; and in the provisions of this Act with respect to the grant of compulsory licenses a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2.) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof:

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3.) For the purposes of this Act "a work of joint authorship" means a work produced by the collaboration of two or more authors, in which the contribution of one author is not distinct from the contribution of the other author or authors.

(4.) Where a married woman and her husband are joint authors of a work the interest of such married woman therein shall be her separate property.

Posthumous works.

23. (1.) In the case of a literary, dramatic, or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter; and

the proviso to section six hereof shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid:

(2.) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author, and the manuscript is of a work which has not been published, nor performed in public, nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

24. Without prejudice to any rights or privileges of the Crown, where any work has, whether before or after the commencement of this Act, been prepared or published by or under the direction or control of His Majesty or any Government Department, the copyright in the work shall, subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work.

Provisions as to
Government
publications.

25. (1.) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works; but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside in New Zealand if it has established a place of business in New Zealand.

Provisions as to
mechanical
instruments.

(2.) It shall not be deemed to be an infringement of copyright in any musical work for any person to make in New Zealand records, perforated rolls, or other contrivances by means of which the work may be mechanically performed, if such person proves—

(a.) That such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work; and

(b.) That he has given the prescribed notice of his intention to make the contrivances, and has paid in the prescribed manner to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such contrivances sold by him, calculated at the rate hereinafter mentioned:

Provided that—

(i.) Nothing herein shall authorize any alterations in or omissions from the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question; and

(ii.) For the purposes of this provision a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work,

but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.

(3.) The rate at which such royalties as aforesaid are to be calculated shall—

(a.) In the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per centum; and

(b.) In the case of contrivances sold as aforesaid after the expiration of that period, five per centum,

on the ordinary retail selling-price of the contrivance calculated in the prescribed manner, so, however, that the royalty payable in respect of a contrivance shall in no case be less than a half-penny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing :

Provided that, if at any time after the expiration of seven years from the commencement of this Act it appears to the Governor in Council that such rate as aforesaid is no longer equitable, he may, after such public inquiry as he may direct, make an Order either decreasing or increasing that rate to such extent as under the circumstances may seem just; but any Order so made shall be provisional only, and shall not have any effect unless and until confirmed by Parliament; but, where an Order revising the rate has been so made and confirmed, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4.) If any such contrivance is made reproducing two or more different works in which copyright subsists, and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, may be determined by arbitration.

(5.) When any such contrivances by means of which a musical work may be mechanically performed have been made, then for the purposes of this section the owner of the copyright in the work shall, in relation to any person who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time.

(6.) For the purposes of this section the Governor in Council may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties; and any such regulations may include regulations requiring payment in advance or otherwise securing the payment of royalties.

(7.) In the case of musical works published before the commencement of this Act the foregoing provisions shall have effect, subject to the following modifications and additions :—

(a.) The conditions as to the previous making by, or with the consent or acquiescence of, the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work, shall not apply.

(b.) The rate of two and one-half per centum shall be substituted for the rate of five per centum as the rate at which royalties are to be calculated; but no royalties shall be payable in respect of contrivances sold before the first day of April, nineteen hundred and fifteen, if contrivances reproducing the same work had been lawfully made or placed on sale in New Zealand before the commencement of this Act.

(c.) Notwithstanding any assignment made before the commencement of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorizing the making, of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives, and not to the assignee, and the royalties aforesaid shall be payable to and for the benefit of the author of the work or his legal personal representatives.

(d.) The saving contained in this Act of the rights and interests arising from or in connection with action taken before the commencement of this Act shall not be construed as authorizing any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances, whether made before or after the commencement of this Act, except on the terms and subject to the conditions laid down in this section.

(e.) Where the work is a work on which copyright is conferred by an Order in Council relating to a foreign country, the copyright so conferred shall not, except to such extent as may be provided by the Order, include any rights with respect to the making of records, perforated rolls, or other contrivances by means of which the work may be mechanically performed.

(8.) Notwithstanding anything in this Act, where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act, subsist therein in like manner and for the like term as if this Act had been in force at the date of the making of the original plate from which the contrivance was directly or indirectly derived:

Provided that—

(a.) The person who at the commencement of this Act is the owner of such original plate shall be the first owner of such copyright; and

(b.) Nothing herein shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance if this provision had been in force at the time of the making of the first-mentioned contrivance.

26. Notwithstanding anything in this Act, it shall not be an infringement of copyright in an address of a political nature delivered at a public meeting to publish a report thereof in a newspaper.

Provision as to
political speeches.

Provisions as to
photographs.

27. The term for which copyright shall subsist in photographs shall be fifty years from the making of the original negative from which the photograph was directly or indirectly derived; and the person who was the owner of such negative at the time when such negative was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside in New Zealand if it has established a place of business in New Zealand.

Reciprocal
protection of
copyright.

28. (1.) The Governor may by Order in Council direct that this Act shall extend—

(a.) To works first published in any part of the British dominions to which the Order relates in like manner as if such works were first published in New Zealand; and

(b.) In respect of residence in any part of the British dominions to which the Order relates, in like manner as if such residence were residence in New Zealand;

and thereupon, subject to the provisions of this section and of the Order, this Act shall apply accordingly.

(2.) Any Order made in pursuance of this section may provide—

(a.) That the term of copyright shall not exceed that conferred by the law of the part of the British dominions to which the Order relates;

(b.) That the enjoyment of the rights conferred by virtue of the Order shall extend to New Zealand only, and shall be subject to the accomplishment of such conditions and formalities as are prescribed by the Order;

(c.) For the modification of any provision of this Act as to ownership of copyright or otherwise, having regard to the law of the part of the British dominions to which the Order relates; and

(d.) That this Act may extend to existing works in which copyright subsists in the part of the British dominions to which the Order relates, but subject to such modifications, restrictions, and provisions as are set out in the Order.

(3.) An Order in pursuance of this section shall be made only if the Governor in Council is satisfied that the part of the British dominions in relation to which the Order is proposed to be made has made, or has undertaken to make, such provisions, if any, as he thinks sufficient for the protection of works first produced or published in New Zealand, and entitled to copyright therein.

Provisions as to
Orders in Council.

29. (1.) The Governor may by Order in Council alter, revoke, or vary any Order in Council made by him in pursuance of any power conferred upon him by this Act; but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2.) Every Order in Council made by the Governor in Council in pursuance of any power conferred upon him by this Act shall be published in the *Gazette*, and shall be laid before Parliament as soon as may be after it is made.

30. (1.) This Act shall not apply to designs capable of being registered under the Patents, Designs, and Trade-marks Act, 1911, except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process.

Provisions as to designs registrable under the Patents, Designs, and Trade-marks Act.

(2.) Regulations may be made under section one hundred and twenty-three of the Patents, Designs, and Trade-marks Act, 1911, for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

31. If it appears to the Governor in Council that a foreign country does not give or has not undertaken to give adequate protection to the works of New Zealand authors, he may by Order in Council direct that such of the provisions of this Act as confer copyright on works first published in New Zealand shall not apply to works published after the date specified in the Order the authors whereof are subjects or citizens of such foreign country and are not resident in New Zealand, and thereupon those provisions shall not apply to such works.

Works of foreign authors first published in New Zealand.

32. (1.) Where any person is immediately before the commencement of this Act entitled to any such right in any work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, he shall as from that date be entitled to the substituted right set forth in the second column of that Schedule, or to the same interest in such a substituted right, and to no other right or interest; and such substituted right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made and the work had been one entitled to copyright thereunder:

Existing works.

Provided that—

(a.) If the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has before that date assigned the right, or granted any interest therein for the whole term of the right, then at the date when but for the passing of this Act the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled, at his option, either—

(i.) On giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration; or

(ii.) Without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore, subject to the payment, if demanded by the author within three years after the date at which

the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration; or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment.

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found, must be advertised in the *Gazette* and in the *Patent Office Journal*, and in one newspaper published in each of the Cities of Wellington, Auckland, Christchurch, and Dunedin.

- * (b.) Where any person has, before the first day of July, nineteen hundred and thirteen, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would but for the passing of this Act have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

(2.) For the purposes of this section the expression "author" includes the legal personal representatives of a deceased author.

(3.) Subject to the provisions of subsections seven and eight of section twenty-five hereof, copyright shall not subsist in any work made before the commencement of this Act otherwise than under and in accordance with the provisions of this section.

PART II.

INTERNATIONAL COPYRIGHT.

33. (1.) The Governor may by Order in Council direct that this Act (except such of the provisions thereof, if any, as may be specified in the Order) shall extend—

- (a.) To works first published in a foreign country to which the Order relates, in like manner as if they were first published in New Zealand;
- (b.) To literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were at the time of the making of the work subjects or citizens of a foreign country to which the Order relates, in like manner as if the authors were British subjects;

(c.) In respect of residence in a foreign country to which the Order relates, in like manner as if such residence were residence in New Zealand ;

and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly :

Provided that—

(a.) Before making an Order in Council under this section in respect of any foreign country (other than a country with which His Majesty has entered into a convention relating to copyright), the Governor shall be satisfied that that foreign country has made or has undertaken to make such provisions, if any, as it appears to the Governor expedient to require for the protection of works entitled to copyright under the provisions of Part I of this Act :

(b.) The Order in Council may provide that the term of copyright in New Zealand shall not exceed that conferred by the law of the country to which the Order relates :

(c.) The provisions of section fifty hereof (relating to the delivery of copies of books to the Registrar) shall not apply to works first published in such country, except so far as is provided by the Order :

(d.) The Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities, if any, as may be prescribed by the Order :

(e.) In applying the provisions of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country :

(f.) In applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased.

(2.) An Order in Council under this section may extend to all the several countries named or described therein.

PART III.

COPYRIGHT OFFICE.

34. (1.) The Governor may from time to time appoint such person as he thinks fit to be Registrar of Copyright, and in like manner may appoint a place to be the Copyright Office. Registrar of
Copyright.

(2.) The person who at the commencement of this Act holds the office of Registrar under the Copyright Act, 1908, shall be and act as Registrar under this Act.

(3.) The place at the commencement of this Act used as the Copyright Office shall be deemed to have been appointed under this Act. Copyright Office.

Deputy Registrar.

35. (1.) The Governor may at any time appoint a fit and proper person to be Deputy Registrar to act in the case of the illness, incapacity, or absence of the Registrar, or in the case of any vacancy in the office of Registrar; and while so acting such Deputy shall have all the powers and privileges, and shall perform all the duties, and be subject to the responsibilities, of the Registrar.

(2.) The fact of the Deputy Registrar acting as aforesaid shall be conclusive evidence of his authority so to do, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorizing him so to act.

Seal.

36. There shall be a seal of the Copyright Office, and impressions thereof shall be judicially noticed and admitted in evidence.

Fees.

37. There shall be paid in respect of application for the registration of copyrights and in respect of other matters with relation to copyrights such fees as may from time to time be prescribed by the Governor in Council, and those fees shall be paid into the Public Account and form part of the Consolidated Fund.

Registration optional.

38. Registration of copyright shall be optional, but the special remedies provided for by sections fifteen, sixteen, and seventeen of this Act may be taken advantage of only by registered owners.

Copyright Registers.

39. The following Registers of Copyright shall be kept by the Registrar at the Copyright Office:—

(a.) The Register of Literary (including Dramatic and Musical) Copyright.

(b.) The Register of Fine Arts Copyrights.

Mode of registration.

40. The owner of any copyright under this Act, or of the sole right to perform or authorize the performance of any musical or dramatic work in New Zealand or any part thereof, may obtain registration of his right in the manner prescribed.

Registration of assignments, &c.

41. When any person becomes entitled to any registered copyright or any other right under this Act by virtue of any assignment or transmission, or to any interest therein by license, he may obtain registration of the assignment, transmission, or license in the manner prescribed.

How registration is to be effected.

42. The registration of any copyright or other right under this Act, or of any assignment or transmission thereof, or of any interest therein by license, shall be effected by entering in the proper register the prescribed particulars relating to the right, assignment, transmission, or license.

Registration of work published in a series.

43. In the case of an encyclopædia, newspaper, review, magazine, or other periodical work, or a work published in a series of books or parts, a single registration for the whole work may be made.

Trusts not registered.

44. (1.) No notice of any trust (expressed, implied, or constructive) shall be entered in any Register of Copyrights under this Act or be receivable by the Registrar.

(2.) Subject to this section, equities in respect of any copyright under this Act may be enforced in the same manner as equities in respect of other personal property.

Register to be evidence.

45. Every Register of Copyrights under this Act shall be *prima facie* evidence of the particulars entered therein; and documents purporting to be copies of any entry therein or extracts therefrom

certified by the Registrar and sealed with the seal of the Copyright Office shall be judicially noticed and admitted in evidence without further proof or production of the originals.

46. Certified copies of entries in any register under this Act or of extracts therefrom shall, on payment of the prescribed fee, be given to any person applying for them. Certified copies.

47. Each register under this Act shall be open to public inspection at all convenient times on payment of the prescribed fee. Public inspection of registers.

48. The Registrar may, in prescribed cases and subject to the prescribed conditions, amend or alter any register under this Act by— Correction of register.

(a.) Correcting any error in any name, address, or particular; and

(b.) Entering any prescribed memorandum or particular relating to copyright or other right under this Act.

49. (1.) Subject to this Act the Supreme Court may, on the application of the Registrar or of any person aggrieved, order the rectification of any register under this Act by— Rectification of register by the Court.

(a.) The making of any entry wrongly omitted to be made in the register; or

(b.) The expunging of any entry wrongly made in or remaining on the register; or

(c.) The correction of any error or defect in the register.

(2.) An appeal shall lie to the Court of Appeal from any order for the rectification of any register made by the Supreme Court or a Judge thereof under this section.

50. (1.) Every person who makes application for the registration of a copyright in a book shall deliver to the Registrar one copy of the whole book, with all maps and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and bound, sewed, or stitched together, and on the best paper on which the book is printed. Copies to be delivered on registration.

(2.) Every person who makes an application for the registration of the copyright in a work of art shall deliver to the Registrar one copy of the work of art or a representation of it.

(3.) The Registrar shall refuse to register the copyright in any book until subsection one of this section has been complied with, or the copyright in a work of art until subsection two of this section has been complied with.

(4.) Each copy or representation delivered to the Registrar in pursuance of this section shall be retained at the Copyright Office.

51. Every person who wilfully makes any false statement or representation to deceive the Registrar or any officer in the execution of this Act, or to procure or influence the doing or omission of anything in relation to this Act or any matter thereunder, is liable on summary conviction to imprisonment for a term not exceeding two years. False representation to Registrar.

52. (1.) The publisher of every book which is first published in New Zealand after the commencement of this Act, and in which copyright subsists under this Act, shall within one month after the publication deliver at his own expense two copies of the book to the Librarian of the General Assembly Library, who shall give a written receipt for them. Copies to be delivered to General Assembly Library.

(2.) The copies delivered to the Librarian of the General Assembly Library shall be copies of the whole book, with all maps

and illustrations belonging thereto, finished and coloured in the same manner as the best copies of the book are published, and bound, sewed, or stitched together, and on the best paper on which the book is printed.

(3.) If a publisher fails to comply with this section he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the copies.

(4.) For the purpose of this section the expression "book" includes every part or division of a book, pamphlet, sheet of letter-press, map, plan, chart, or table, but shall not include any second or subsequent edition of a book unless that edition contains additions or alterations either in the letterpress or in the maps, prints, or other engravings belonging thereto.

53. The Governor in Council may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act or for the conduct of any business relating to the Copyright Office.

54. (1.) The Copyright Act, 1908, and section one hundred and thirty-two of the Patents, Designs, and Trade-marks Act, 1911, are hereby repealed.

(2.) The Imperial enactments referred to in the Second Schedule hereto shall, as from the commencement of this Act, cease to have any force or effect in New Zealand.

Power to make regulations.

Repeals.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

EXISTING RIGHTS.

Existing Right.	Substituted Right.
<i>(a.) In the case of Works other than Dramatic and Musical Works.</i>	
Copyright	Copyright as defined by this Act.*
<i>(b.) In the case of Musical and Dramatic Works.</i>	
Both copyright and performing-right ...	Copyright as defined by this Act.*
Copyright, but not performing-right ...	Copyright as defined by this Act, except the sole right to perform or authorize the performance of the work or any substantial part thereof in public.
Performing-right, but not copyright ...	The sole right to perform or authorize the performance of the work in public, but none of the other rights comprised in copyright as defined by this Act.

* In the case of an essay, article, or portion forming part of and first published in a review, magazine, or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under section eighteen of the Imperial Copyright Act, 1842.

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings:—

“Copyright,” in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date, and statutory copyright wherein depends on publication, includes the right at common law, if any, to restrain publication or other dealing with the work :

“Performing-right,” in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law, if any, to restrain the performance thereof in public.

SECOND SCHEDULE.

IMPERIAL ENACTMENTS.

- 8 Geo. II, c. 13.—The Engraving Copyright Act, 1734.
 7 Geo. III, c. 38.—The Engraving Copyright Act, 1767.
 17 Geo. III, c. 57.—The Prints Copyright Act, 1777.
 54 Geo. III, c. 56.—The Sculpture Copyright Act, 1814.
 3 & 4 Will. IV, c. 15.—The Dramatic Copyright Act, 1833.
 5 & 6 Will. IV, c. 65.—The Lectures Copyright Act, 1835.
 6 & 7 Will. IV, c. 59.—The Prints and Engravings Copyright Act, 1836.
 5 & 6 Vict., c. 45.—The Copyright Act, 1842.
 7 & 8 Vict., c. 12.—The International Copyright Act, 1844.
 10 & 11 Vict., c. 95.—The Colonial Copyright Act, 1847.
 15 & 16 Vict., c. 12.—The International Copyright Act, 1852.
 25 & 26 Vict., c. 68.—The Fine Arts Copyright Act, 1862.
 38 & 39 Vict., c. 12.—The International Copyright Act, 1875.
 39 & 40 Vict., c. 36.—The Customs Consolidation Act, 1876: Section 152 (prohibiting the importation of foreign reprints of books under copyright).
 45 & 46 Vict., c. 40.—The Copyright (Musical Compositions) Act, 1882.
 49 & 50 Vict., c. 33.—The International Copyright Act, 1886.
 51 & 52 Vict., c. 17.—The Copyright (Musical Compositions) Act, 1888.