



LAWS OF SEYCHELLES

COPYRIGHT ACT

CHAPTER 51

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CHAPTER 51

COPYRIGHT ACT

1st April, 1984

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SCHEDULES

1. Acts not controlled by copyright
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1.(1) This Act may be cited as the Copyright Act.

(2) This Act binds the Republic.

2. In this Act, unless the context otherwise requires,

"adaptation", in relation to a work, includes a translation, dramatisation, pictorialisation, transcription, and the making of a new version or arrangement, of a pre-existing work_

"artistic work" means, irrespective of artistic quality, a work which is, or which is a combination of two or more of,

(a) a painting, drawing, etching, lithograph, woodcut, collage, engraving or print_

(b) a map, plan, diagram, sketch or illustration_

(c) a work of sculpture_

(d) a three dimensional work relating to geography, topography, or science_

(e) a photograph not comprised in a film or a work expressed by a process analogous to photography_

(f) a work of architecture in the form of a building or model_ or

(g) a work of artistic craftsmanship or applied art_

author"

(a) in the case of a literary, musical or artistic work, means the person who actually writes, compiles, composes or draws the work_

(b) in the case of a photograph, means the photographer_

(c) in the case of a performance of a literary or musical work, means the person who performs the work_

(d) in the case of a film or sound recording, means the person who undertook the arrangements for the making of the film or recording;

(e) in the case of a broadcast transmitted from within any country means the person who undertook the arrangements for the making of the transmission from within that country;

"Authority" means a Copyright Licence Authority appointed under section 18;

"broadcast" means a sound or television broadcast of any material and includes a diffusion over wires;

"building" includes any structure;

"communication to the public" includes, in addition to any live performance or delivery, any mode of visual or acoustic presentation to the public;

"control", in relation to an act, includes authorizing other persons to do that act;

"copy" means a reproduction in

(a) written form;

(b) the form of a print, negative, recording, film, tape or wire; or

(c) in any other material form:

provided that

(i) this definition is without prejudice to the definition of "reproduction"; and

(ii) an object is not to be taken to be a copy of an architectural work unless the object is a building or model;

"copyright" means copyright under this Act;

"copyright inspector" means a public officer authorized under section 25;

"Copyright Register" means the Copyright Register in terms of section 15

"film" means any sequence of visual images recorded in any manner on material of any description (whether translucent or not) so as to be capable, by the use of that material

(a) of being shown as a moving picture; or

(b) of being reproduced,

and includes

(i) the recording of a sound-track associated with a film;

and, for the avoidance of doubt,

(ii) a cinematograph film; and

(iii) a video or audio-visual recording;

"folklore" means all ancient literary, musical or artistic works created in Seychelles, passed from generation to generation and constituting a basic element of the cultural heritage of Seychelles;

"infringing copy" means a copy which contravenes copyright;

"judicial officer" means a Judge, a Senior Magistrate, a magistrate, a Justice of the Peace or the Registrar of the Supreme Court;

"literary work" means, irrespective of literary quality, a work which is, or which is a combination of two or more of,

(a) a book, novel, story, or poetical work;

(b) a play, mime, stage direction, choreographic work, film scenario or broadcasting script;

(c) a textbook, treatise, history, biography, essay, pamphlet or article;

(d) a scientific work, written table or compilation;

(e) an encyclopedia or dictionary;

(f) a letter, report or memorandum;

(g) a lecture, address or sermon; or

(h) computer software,

but does not include any written law, law report or judicial decision;

"musical work" means any musical work, with or without words and irrespective of musical quality, and includes a work composed for musical accompaniment;

"re-broadcasting" means simultaneous or subsequent broadcasting by one broadcaster of the broadcast of another broadcaster, and includes diffusion of the broadcast over wires;

"registered copyright" means a copyright registered in the Copyright Register;

"registered owner" means the owner of a registered copyright;

"Registrar" means the Registrar of Copyrights in terms of section 15(1);

"reproduction", in relation to a work, means the copying or making of one or more copies of the work;

"sell" includes

(a) to sell by auction; or

(b) to offer or attempt to sell; or

(c) to expose, display or advertise for sale; or

(d) to sell or hire under a hire-purchase or instalment sale agreement; or

(e) to exchange or dispose of goods for any valuable consideration;

"sound recording" means the aggregate of any sequence of sounds recorded in any manner on material of any description so as to be capable of being perceived aurally or of being

reproduced, but does not include a sound-track associated with a film;

"work" includes an anthology or collection of works which, by reason of the selection and arrangement of its content, presents an original character;

"work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of each author is not separable from the contribution of the other author or authors.

(2) For the purpose of this Act, with respect to publication

(a) a work is taken to have been published if, but only if, copies have been issued in sufficient quantities to satisfy the reasonable requirements of the public;

(b) where in the first instance a part only of a work is published, that part is treated as a separate work;

(c) a publication in any country shall not be treated as being other than the first publication by reason only of an earlier publication elsewhere, if the two publications took place within a period of not more than 30 days.

PART II.- COPYRIGHT

General and eligibility

3.(1) Copyright is the protection of an eligible work by an exclusive right conferred by this Act on

(i) the author or another person,

(ii) to control for a period,

(iii) in Seychelles or another place,

(iv) all or any of the copying, reproduction, communication to the public or broadcasting, of the work, all by virtue of and in accordance with this Act

(2) Subject to section 4, the following works are eligible for copy- right,

(a) literary works_

(b) musical works_

(c) artistic works_

(d) performances of literary or musical works_

(e) films_

(f) sound recordings_

(g) broadcasts.

4.(1) A literary, musical or artistic work is only eligible for copyright if

(a) sufficient effort has been expended on making the work to give it an original character_ and

(b) the work, unless it is Seychelles folklore, has been written down, recorded or otherwise reduced to material form.

(2) An artistic work is not eligible for copyright if, at the time when the work is made, it is intended by the author to be used as a model or pattern to be multiplied by any industrial process.

(3) A work is eligible for copyright notwithstanding that the making of the work, or the doing of any act in relation to the work, involved an infringement of copyright in some other work.

Subsistence of copyright

5.(1) Subject to sections 7 and 8, copyright subsists in every work eligible for copyright of which the author is, at the time when the work is made,

(a) an individual who is a citizen of Seychelles or is resident in Seychelles_ or

(b) a body corporate incorporated under the laws of Seychelles.

(2) Subsection (1) applies to a work of joint authorship if any of the authors qualifies under subsection (1) (a) or (b).

6. Copyright subsists in every work eligible for copyright which -

(a) being a literary, musical or artistic work or a film, is first published in Seychelles;

(b) being a performance of a literary, musical or artistic work, is first performed in Seychelles; or

(c) being a sound recording or broadcast, is first made in Seychelles; and in which copyright does not subsist under section 5, 7 or 8.

7.(1) Copyright subsists in every work eligible for copyright which is Seychelles folklore.

(2) Copyright under this section subsists without limitation in time.

(3) Copyright under this section vests in the Republic and

(a) subject to subsection (5), the rights in such copyright may be exercised on behalf of the Republic by the Minister; and

(b) licences in respect of those rights may be granted by the Minister in accordance with section 17, but no fee or charge shall be made for such a licence granted to a Seychellois.

(4) Copyright in Seychelles folklore under this section shall not be transmitted by assignment or otherwise and any purported assignment of such copyright is void.

(5) No copyright under this section shall prevent a Seychellois doing any act or thing which it was lawful for him to do immediately prior to the commencement of this Act.

8.(1) Copyright subsists in every work eligible for copyright which is made or broadcast by or under the direction or control of

(a) the Government, or

(b) such public bodies or international bodies as may be prescribed.

(2) Copyright under this section subsists in a literary, musical or artistic work, other than a photograph, until the expiry of 25 years after the end of the year in which it was first published.

(3) Sections 5 and 6 do not confer copyright on works to which this section applies.

9.(1) Copyright under

(a) section 5 or 6; or

(b) section 8 in a photograph, performance of a literary or musical work, film, sound recording or broadcast,

subsists in a work until the expiry of 25 years after the end of the year in which the following event takes place

<i>Type of work</i>	<i>Event</i>
(i) Literary, musical or artistic work other than a photograph	Death of the author or, for an anonymous or pseudonymous work, the first publication (subject to subsection (2))
(ii) Photograph or film	First publication
(iii) Performance of literary or musical work	First performance
(vi) Sound recording	Making of recording
(v) Broadcast	First broadcast

(2) In subsection (1) (i)

(a) for a work of joint authorship the relevant event is the death of the author who dies last, whether or not he qualifies under section 5; and

(b) a work is no longer considered anonymous or pseudonymous if the identity of the author becomes publicly known.

Nature of copyright

10.(1) Copyright in a literary, musical or artistic work or in a film is the exclusive right, subject to this Act and any other written law, to control in Seychelles

(a) the reproduction or adaptation in any material form;

(b) the communication to the public; or

(c) the broadcasting,

of the whole work or a substantial part of the work, either in its original form or in any form

recognizably derived from the original.

(2) Copyright in a literary, musical or artistic work or in a film does not include the right to control an act specified in Schedule 1.

(3) Copyright in a work of architecture

(a) also includes the exclusive right to control the erection of any building which reproduces the whole or a substantial part of the work either in its original form or in any form recognizably derived from the original; but

(b) does not include the right to control the reconstruction of the building in the same style as the original.

11.(1) Copyright in a performance of a literary or musical work is the exclusive right, subject to this Act and any other written law, to control in Seychelles

- (a) the making of a film or recording; or
- (b) the reproduction or adaptation; or
- (c) the communication to the public; or
- (d) the broadcasting; or
- (e) the use of a record for the purpose of giving a public performance,

of the whole performance or a substantial part of the performance, either in its original form or in any form recognizably derived from the original, without the consent in writing of the performers.

(2) Copyright in a performance of a literary, musical, or artistic work does not include the right to control

- (a) an act specified in paragraph 1, 2, 3, 6, 9 or 10 of Schedule 1; or
- (b) the broadcasting of or use of a record of the performance for the purpose of giving a public performance;

if fair compensation is paid to the owner of the relevant part of the copyright.

12.(1) Copyright in a sound recording is the exclusive right, subject to this Act and any other written law, to control in Seychelles the direct or indirect reproduction or adaptation of the whole or a substantial part of the recording, either in its original form or in any form recognizably derived from the original.

(2) Copyright in a sound recording does not include the right to control an act specified in paragraph 1, 2, 3, 9 or 10 of Schedule 1.

13.(1) Copyright in a broadcast is the exclusive right, subject to this Act and any other written law, to control in Seychelles

- (a) the recording and the re-broadcasting of; or

(b) the reproduction or adaptation of; or

(c) the communication to the public, in places where an admission fee is charged, of; or

(d) in relation to a television broadcast, the taking of still photographs from,

the whole broadcast or a substantial part of the broadcast either in its original form or in any form recognizably derived from the original.

(2) Copyright in a broadcast does not include the right to control an act specified in paragraph 1,2; 3,9 or 10 of Schedule 1.

Ownership of copyright

14.(1) Copyright under section 5 or 6 vests initially in the author, subject to sub-section (2).

(2) Notwithstanding section 17(8), where a work (other than a broadcast)

(a) is commissioned by a person who is not the author's employer under a contract of service; or

(b) not having been so commissioned, is made in the course of the author's employment,

the copyright under section 5 or 6 vests initially in the person who commissioned the work or in the author's employer, as the case may be, subject to any agreement to the contrary between the parties.

(3) Copyright in Seychelles folklore under section 7 vests in accordance with that section.

(4) Copyright under section 8 (Copyright in works of Government etc) vests initially in the Government, international body or other governmental organization by whom or under whose direction or control the work is made.

PART III- COPYRIGHT REGISTRATION

15.(1) The President may, by notice in the Gazette, *appoint a Registrar of Copyrights who shall cause a Copyright Register to be established and maintained.

(2) The owner of the copyright in a work may apply to the Registrar for registration of the copyright in such manner and with such fee and other things or information as may be prescribed.

(3) If the Registrar is satisfied that the applicant is the owner of the copyright in the work he shall register him in the Copyright Register as the registered owner of that registered copyright.

(4) Where a person claims that he and not the registered owner is the owner of a registered copyright, he may apply to the Supreme Court to be registered as owner in the Copyright Register in place of the then registered owner.

(5) Without prejudice to this section or to any question or action about whether copyright subsists in the work, only the registered owner is deemed for the purposes of this Act to be the owner of a registered copyright.

16.(1) The registered owner of a registered copyright may register in the Copyright Register any agreement, contract, assignment, licence or document relating to or dealing with the registered copyright.

(2) No agreement, contract, assignment, licence or document relating to or dealing with a registered copyright is admissible in evidence in any civil matter or proceeding unless it is registered under subsection (1).

(3) An agreement, contract, assignment, licence or document relating to or dealing with a registered copyright is admissible in evidence in a criminal trial or proceeding notwithstanding that it is not registered under subsection (1).

*Mr Guy Lionnet has been appointed the Registrar of Copyright (G.N.125 of 1983).

PART IV.- ASSIGNMENTS AND LICENCES

17.(1) Subject to this section and to section 16, copyright is Assignments and transmissible by assignment, by will, or by operation of law, as licences. movable property.

(2) An assignment or will of copyright may be limited so as to apply to

(a) some only of the acts which the owner of the copyright has the exclusive right to control;

(b) part only of the period of the copyright; or

(c) a specified country or other geographical area.

(3) A purported assignment of copyright is void if it is not in writing signed by or on behalf of the assignor.

(4) A document purporting to confer an exclusive licence to do an act falling within copyright is to be construed as a total or partial assignment of the copyright, as the case may require.

(5) A licence to do an act controlled under copyright may be written or oral, or may be inferred from conduct, and may be revoked at any time;

Provided that a licence granted by contract shall not be revoked, either by the person who granted the licence or his successor in title, except

(a) as the contract may provide; or

(b) (b) by a further contract.

(6) An assignment or licence granted by one copyright owner has effect as if granted by his co-owners also, and, subject to any contract between them, fees received by the grantor shall be divided equitably between all the co-owners.

(7) For the purposes of sub-section (6), persons are deemed to be co-owners if

(a) they share a joint interest in the whole or any part of a copyright; or

(b) they have interests in the various copyrights in a composite production which consists of two or more works.

(8) An assignment, licence or will may be effectively granted or made in respect of a future work, or an existing work in which copyright does not yet subsist, and the prospective copyright in any such work is transmissible by operation of law as movable property.

(9) A will of the material on which a work is first written or recorded shall, in the absence of contrary indication, be taken to include the disposition of any copyright or prospective copyright in the work which was vested in the deceased.

18.(1) The Minister may appoint a person or person as a Copyright Licence Authority for the purposes of this Act.

(2) In any case where it appears to the Authority that a licensing body

(a) is unreasonably refusing to grant licences in respect of copyright_ or
(b) is imposing unreasonable terms or conditions on the granting of such licences,

the Authority may direct that, as respects the doing of any act relating to a work with which the licensing body is concerned, a licence is deemed to have been granted by the copyright owner provided fair compensation is paid or tendered to the licensing body in a specified time.

(3) In this section, "licensing body" means an organization which has as its main object, or one of its main objects, the negotiation or granting of licences in respect of copyright works.

PART V. - CIVIL ACTIONS FOR INFRINGEMENT

19.(1) Copyright is infringed by a person who does, or authorizes or causes another person to do, an act controlled under the copyright without the licence of the owner of the whole or the relevant part of the copyright.

(2) Subject to this Act, infringements of copyright are actionable at the suit of the owner of the whole or the relevant part of copyright; and in an action for an infringement of copyright all such relief, by way of damages, injunction, accounts or otherwise, is available to the plaintiff as is available in any corresponding proceedings in respect of infringement of other rights of property.

(3) Where in an action under this section it is proved or admitted

(a) that an infringement of copyright was committed; but

(b) that at the time of the infringement the defendant was not aware, and had no reasonable grounds of suspecting, that copyright subsisted in the work or other subject-matter to which the action relates, the plaintiff is not entitled under this section to any damages against the defendant in respect of the infringement whether any other relief is granted under this section or not.

(4) Where in an action under this section an infringement of copyright is proved or admitted, and the court having regard (in addition to all other material considerations) to

(a) the flagrancy of the infringement; and

(b) any benefit shown to have accrued to the defendant by reason of the infringement,

is satisfied that effective relief would not otherwise be available to the plaintiff, the court, in assessing damages for the infringement, may award such additional damages as it considers appropriate in the circumstances.

(5) No injunction shall be issued in proceedings for infringement of copyright which requires a completed or partly built building to be demolished or prevents the completion of a partly built building.

20. Schedule 2 applies with respect to the proof of facts in any civil proceedings or matter under this Act.

PART VI.- OFFENCES

21.(1) A-person who, at a time when copyright subsists in a work,

(a) makes for sale or hire, or

(b) sells or lets for hire; or

(c) imports into Seychelles, otherwise than for his private and domestic use,

an article which he knows to be an infringing copy of the work, is guilty of an offence.

(2) A person who, at a time when copyright subsists in a work, distributes, either

(a) for purposes of trade; or

(b) for other purposes, to such an extent as to effect prejudicially the owner of the copyright,

articles which he knows to be infringing copies of the work, is guilty of an offence.

(3) A person who causes a literary or musical work to be performed in public, knowing that copyright subsists in the work and that the performance constitutes an infringement of the copyright, is guilty of an offence.

(4) A person who does any act infringing copyright under

(a) section 11 in the performance of a literary or musical work;

(b) section 12 in a sound recording; or

(c) section 13 in a broadcast,

knowing that copyright subsists in the work and that the act constitutes an infringement of the copyright, is guilty of an offence.

(5) For the purposes of this section and section 22, a person is deemed to know that a gramophone record, tape or wire record-

-ing, cassette recording, film or audio-visual or video recording is an article which is an infringing copy of a work if

(a) the copyright in the work is a registered copyright; and

(b) that article or copy was not made, sold, let for hire, imported or distributed under an agreement, contract, assignment, licence or document registered under section 16(1).

(6) A person guilty of an offence under this section is liable to imprisonment for 5 years and to a fine of R. 30,000.

(7) The court before which a person is charged with an offence under this section may, whether he is convicted of the offence or not, order that any article in his possession which appears to the court to be an infringing copy, or to be used or intended to be used for making infringing copies, shall be

(a) destroyed;

(b) delivered up to the person who appears to the court to be the owner of the copyright in question; or

(c) disposed of in such other way as the court thinks fit.

22.(1) Without prejudice to section 21, a person who for the purposes of trade or business has in his possession any infringing copy of a work in which copyright subsists is, unless he proves to the satisfaction of the court that he did not know and that he had no reason to believe that it was an infringing copy of any such work, guilty of an offence and is liable to a fine of R. 1000 in respect of each such infringing copy and to imprisonment for 1 year.

(2) Where an article is seized by a police officer or a copyright inspector under section 26 in connection with a suspected offence under this Act and

(a) a person is charged with an offence under subsection (1); or

(b) on the application of the Attorney-General, the court may, if it is satisfied that the article
(i) is an infringing copy of a work in which copyright subsists; or
(ii) has been used in connection with an offence under this Act,
and, whether a person is convicted of the offence or not, order that the article is

(A) destroyed;

(B) delivered up to the person who appears to the court to be the owner of the copyright in question;
or

(C) disposed of in such other way as the court thinks fit.

23.(1) No person shall sell, let for hire, import or distribute a gramophone record, tape or wire recording, cassette recording, film or audio-visual or video recording unless the name and address of the maker is marked clearly on its label.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable to imprisonment for 1 year and to a fine of R. 10,000.

24. Schedule 3 applies with respect to evidence by affidavit in any criminal proceedings under this Act.

PART VII.- COPYRIGHT INVESTIGATION

25. The Minister may authorize copyright inspectors for purposes of this Act.

26.(1) For the purpose of this Act, where a police officer of the rank of inspector or above or a copyright inspector has reasonable grounds for doing so he may

- (a) (i) subject to section 27, enter and search any premises or place; or
- (ii) stop, board and search a vessel, aircraft or vehicle;

(b) seize, remove or detain

- (i) any article which appears to him to be an infringing copy of a work in which copyright subsists under this Act; or
- (ii) anything which appears to him to be, or to be likely to be or to contain, evidence of an offence under this Act.

(2) A police officer of the rank of inspector or above or a copyright inspector may

- (a) break open an outer or inner door of any premises or place which he is empowered or authorized by this Act to enter and search;
- (b) forcibly board a vessel, aircraft or vehicle which he is empowered by this Act to stop, board and search;
- (c) remove by force any person or thing obstructing him in the exercise of any power conferred on him by this Act;
- (d) detain a person found in any premises, place, vessel, aircraft or vehicle which he is empowered or authorized by this Act to search until the premises, place, vessel, aircraft or vehicle has been searched; or
- (e) detain a vessel, aircraft or vehicle which he is empowered by this Act to stop, board and search, and prevent any person from approaching or boarding that vessel, aircraft or vehicle until it has been searched.

27.(1) No domestic premises shall be entered and searched by a police officer or a copyright inspector unless a judicial officer has issued a warrant under subsection.

(2) A judicial officer may, if he is satisfied by information on oath that there is reasonable ground for suspecting that there is in domestic premises an article which may be seized, removed or detained under section 26(1)(b), issue a warrant authorizing a police officer of the rank of inspector or above or a copyright inspector to enter and search the premises.

- (3) (a) A police officer of the rank of inspector or above; or
(b) a copyright inspector

authorized under subsection (2) to enter and search any domestic premises, may call upon any police officer or any copyright inspector to assist him in entering and searching the premises.

28.(1) Without prejudice to any other written law, no person shall

- (a) prevent, hinder or obstruct a police officer or a copyright inspector in the performance of his functions under this Act;
- (b) refuse, delay or fail to comply with any requirement properly made to him by any such police officer or copyright inspector; or
- (c) without reasonable excuse, refuse, delay or fail to give such police officer or copyright inspector any other assistance which he may reasonably require to be given for the purpose of performing his functions under this Act.

(2) A person who, when required to give information to a police officer or to a copyright inspector in the performance of his functions under this Act,

- (a) knowingly gives false or misleading information;
- (b) recklessly makes a statement which is false in a material particular,

to any such police officer or copyright inspector is guilty of an offence punishable in terms of subsection (3).

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable to imprisonment for 3 months and to a fine of R.5000.

(4) Nothing in this section requires any person to give any information which may incriminate him.

PART VIII.- MISCELLANEOUS

29.(1) The Minister may make regulations for the better carrying out of the objects and purposes of this Act, including

- (a) prescribing any matter which is to be or may be prescribed under this Act;
- (b) prescribing the form or content of documents under

this Act;

(c) prescribing fees or charges under this Act;

(d) prescribing the criteria for fair compensation for the doing of an act controlled under copyright.

30. The Chief Justice may make rules of court for the better Rules of court. carrying out of proceedings in court under this Act.

31.(1) The Minister may, by order published in the *Gazette*, Extension of Act extend the application of this Act, in respect of any or all of the works specified in section 3 (2)

(a) to individuals or bodies corporate who are citizens of or domiciled or resident in or incorporated under the laws of; or

(b) to works, other than sound recordings, first published in; or

(c) to sound recordings made in,

a country which is a party to a treaty to which Seychelles is also a party and which provides for copyright in works to which the application of this Act extends.

(2) An order under subsection (1) may

(a) make the extension of the application of this Act subject to such exceptions or modifications as are specified in the order;

(b) include adaptations of this Act or any other written

law in consequence of those exceptions or modifications.

32.(1) This Act applies in relation to works made before the commencement of this Act as it applies in relation to works made after the commencement:

Provided that no act done before the commencement of this Act is

- (a) an infringement of copyright under section 19; or
- (b) an offence under this Act.

(2) Any copyright, right, privilege, obligation or liability

(a) subsisting; or

(b) having effect in Seychelles,

at the commencement of this Act by virtue of the copyright Act, 1956 of the United Kingdom, Copyright (Seychelles) Order, 1961 and the Copyright (International Conventions) Order, 1972, repealed by this Act is deemed to be a copyright, right, privilege, obligation or liability, as the case may be, under the corresponding provision of this Act.

SCHEDULE 1

Sections 10, 11 12 and 13

ACTS NOT CONTROLLED BY COPYRIGHT

Fair dealing for the purpose of

- (a) private use;
- (b) research;

(c) review or criticism; or

(d) reporting of current events,

if any public use of the work is accompanied by an acknowledgment of its title and authorship.

2. Parody, caricature or pastiche.
3. Any use for the purpose of a judicial proceeding or of any report of a judicial proceeding.
4. The reproduction, distribution of copies or inclusion in a film or broadcast of an artistic work permanently on view to the public.
5. The incidental inclusion of an artistic work in a film or broadcast.
6. The inclusion, in a collection of literary or musical works, of not more than two short passages from the work in question if the collection is designed for use in educational institutions and includes an acknowledgment of the title and authorship of the work.
7. The making or importing of a sound recording of a literary or musical work and the reproduction of that sound recording if intended for sale in Seychelles if fair compensation is paid to the owner of the relevant part of the copyright.
8. The reading or recitation in public by one person of any reasonable extract from a published literary work if accompanied by an acknowledgment of its title and authorship.
9. Communication to the public by or under the direction or control of the Government if
 - (a) it is in the public interest;
 - (b) no revenue is derived from it; and
 - (c) no admission fee is charged.
10. The broadcasting of a work already lawfully made accessible to the public if fair compensation is paid to the owner of the relevant part of the copyright.

SCHEDULE 2

Section 20

PROOF OF FACTS

(IN CIVIL PROCEEDINGS OR MATTERS)

1. In any civil proceedings or matter under this Act

- (a) copyright is presumed to subsist in the work to which the action relates, if the defendant does not put in issue the question whether copyright subsists in it; and
- (b) where the subsistence of the copyright is proved or admitted, or is presumed under paragraph (a), the plaintiff is presumed to be the owner of the copyright if he claims to be the owner of the copyright

and the defendant does not put in issue the question of his ownership of it.

2. Subject to sub-paragraph (a), where in the case of a literary, musical or artistic work or a film a name purporting to be that of the author appeared on copies of the work as published, or, in the case of an artistic work or film, appeared on the work when it was made, the person whose name so appeared (if it was his true name or a name by which he was commonly known) shall in any civil proceedings or matter under this Act be presumed, unless the contrary is proved.

(a) to be the author of the work; and

(b) to have made the work in circumstances not falling within section, 4(2).

3. In the case of a work alleged to be a work of joint authorship, paragraph 2 applies in relation to each person alleged to be one of the Authors of the work as if references in that paragraph to the author were references to one of the authors.

4. Where, in any civil proceedings or matter under this Act with respect to a literary, dramatic, musical or artistic work or a film, paragraph 2 does not apply but it is established

(a) that the work was first published in Seychelles and was so published within the period of 25 years ending with the beginning of the year in which the action was brought; and

(b) that a name purporting to be that of the publisher appeared on copies of the work as first published,

then unless the contrary is shown, copyright is presumed to subsist in the work and the person whose name so appeared is presumed to have been the owner of that copyright at the time of the publication.

For the purposes of this paragraph a fact shall be taken to be established if it is proved or admitted, or it is presumed under paragraphs 5 to 7.

5. Where in any civil proceedings or matter under this Act with respect to a literary musical or artistic work or a performance of a literary or musical work or a film it is proved or admitted that the author of the work is dead,

(a) the work is presumed to be an original work unless the contrary is proved; and

(b) if it is alleged by the plaintiff that a publication specified in the allegation was the first publication of the work, and that it took place in a country and on a date so specified, that publication is presumed unless the contrary is proved, to have been the first publication of the work and to have taken place in that country and on that date.

6. Paragraph 5 (a) and (b) applies where a work has been published, and

(a) the publication was anonymous, or was under a name alleged by the plaintiff to have been a pseudonym, and

(b) it is not shown that the work has ever been published under the true name of the author (or under a name by which he was commonly known) or that it is possible for a person without previous knowledge of the facts to ascertain the identity of the author by reasonable inquiry,

as it applies in a case where it is proved that the author is dead.

7. In any civil proceedings or matter under this Act with respect to copyright in a sound recording, if records embodying that recording or part of it have been issued to the public, and at the time when those records were so issued they bore a label or other mark stating that

(a) a person named on the label or mark was the maker of the sound recording;

(b) the recording was first published in a year specified on the label or mark; or

(c) the recording was first published in a country specified on the label or mark,

then that label or mark is sufficient evidence of the facts so stated except in so far as the contrary is proved.

SCHEDULE 3

Section 24

AFFIDAVIT EVIDENCE

(IN CRIMINAL PROCEEDINGS)

1. An affidavit which

(a) purports to have been made by or on behalf of the owner of a work in which copyright subsists under this Act; and

(b) states that

(i) at a time specified, copyright subsisted in the work;

(ii) the person named is the owner of the copyright in the work;

(iii) a copy of the work exhibited to the affidavit is a true copy of the work,

shall, if it complies with paragraph 3, be admitted without further proof in any criminal proceedings in respect of an offence under this Act.

2. The court before whom an affidavit is produced under paragraph 1 shall presume, until the contrary is proved,

(a) that the statements made in the affidavit are true; and

(b) that it was made and authenticated in accordance with paragraph 3.

3. An affidavit for the purpose of this Schedule must be

(a) made on oath

(i) before a judicial officer or a notary public, if it is made in Seychelles;

(ii) before a consular officer of the Seychelles Government or such other person as the Minister may determine, if it is made outside Seychelles; and

(b) authenticated, as to its making, by the signature of the judicial officer, notary, consular officer or other person before whom it is made.