

Act A994
Copyright (Amendment) Act 1997

Long Title & Preamble

An act to amend the promotion of Investment Act 1986.

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

Section 1. Short title and commencement.

This Act may be cited as the **Copyright (Amendment) Act 1997** and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

Section 2. Amendment of section 3.

The Copyright Act 1987 [Act 332], which in this Act is referred to as the "principal Act", is amended in section 3-

(a) in the definition of "author" by substituting for paragraph (f) the following paragraph:
"(f) in relation to broadcasts transmitted from within any country, means-

(i) the person transmitting the programme, if he has responsibility for the selection of its contents; or

(ii) any person providing the programme who makes with the person transmitting it the arrangements necessary for its transmission;"

(b) by substituting for the definition of "broadcast" the following definition:
"broadcast" means a transmission, by wire or wireless means, of visual images, sounds or other information which-

(a) is capable of being lawfully received by members of the public; or

(b) is transmitted for presentation to members of the public,

and includes the transmission of encrypted signals where the means for decrypting are provided to the public by the broadcasting service or with its consent;"

(c) by deleting the definition of "communication by cable";

(d) by inserting after the definition of "citizen" the following definition:
"communication to the public" means the transmission of a work through wire or wireless means to the public, including the making available of a work to the public in such a way that members of the public may access the work from a place and at a time individually chosen by them;"

(e) in the definition of "fixation" by inserting after the words "or both" the words ", or the representation thereof,"; and

(f) in the definition of "literary work"-

(i) in paragraph (g) by substituting for the words "expressed in words, figures, or symbols (whether or not in a visible form) " the words "whether or not expressed in words, figures or symbols and whether or not in a visible form"; and

(ii) in paragraph (h) by deleting the words "or compilations of computer programs".

Section 3. Amendment of section 7.

Section 7 of the principal Act is amended by inserting after subsection (2) the following subsection:

"(2A) Copyright protection shall not extend to any idea, procedure, method of operation or mathematical concept as such."

Section 4. Amendment of section 13.

Section 13 of the principal Act is amended-

(a) in subsection (1) -

(i) by substituting for the words "or a sound recording" the words "a sound recording or a derivative work";

(ii) by inserting after paragraph (a) the following paragraph: "(aa) the communication to the public;";

(iii) by deleting paragraphs (c) and (d) ;

(iv) by substituting for paragraph (e) the following paragraph:

"(e) the distribution of copies to the public by sale or other transfer of ownership; and"; and

(v) by inserting after paragraph (e) the following paragraph:

"(f) the commercial rental to the public,"; and

(b) in subsection (2) -

(i) by inserting after paragraph (ggg) the following paragraph:

"(gggg) the making of copies of television broadcasts which are subtitled or otherwise modified for people who are deaf or hard of hearing, or physically or mentally handicapped in other ways and the issuing of such copies to the public by non-profit making bodies or institutions which the Minister may, by order, prescribe;"

(ii) in paragraph (n) by deleting the word "and" at the end of the proviso to that paragraph; and

(iii) by substituting for the full stop at the end of paragraph (o) a semicolon and the word "and" and inserting thereafter the following paragraph:

"(p) the commercial rental of computer programs, where the program is not the essential object of the rental. "

Section 5. Amendment of section 15.

Subsection 15(2) of the principal Act is amended by inserting after the word "(ggg)," the word "(gggg)".

Section 6. Amendment of section 17.

Section 17 of the principal Act is amended-

(a) in the marginal note by deleting the words "(other than photographs)"; and

(b) in subsections (1), (2) and (3) by deleting the words "(other than a photograph)".

Section 7. Deletion of section 21.

The principal Act is amended by deleting section 21.

Section 8. Amendment of section 25.

Section 25 of the principal Act is amended-

(a) in subsection (2) -

(i) in paragraph (a) by inserting after the word "whatsoever," the words "without identifying the author or"; and

(ii) in paragraph (b) by substituting for the words "the presentation of the work by any means whatsoever, in a modified form if the modification-" the words "the distortion, mutilation or other modification of the work if the distortion, mutilation or modification-" ; and

(b) in subsection (3) -

(i) by substituting for the words ", broadcast or communicate by cable" the words "or communicate to the public"; and

(ii) by substituting for the words ", broadcast or communication by cable" the words "or communication to the public".

Section 9. Amendment of section 36.

Section 36 of the principal Act is amended by inserting after subsection (2) the following

subsections:

"(3) Copyright is infringed by any person who circumvents or causes any other person to circumvent any effective technological measures that are used by authors in connection with the exercise of their rights under this Act and that restrict acts, in respect of their works, which are not authorized by the authors concerned or permitted by law.

(4) Copyright is infringed by any person who knowingly performs any of the following acts knowing or having reasonable grounds to know that it will induce, enable, facilitate or conceal an infringement of any right under this Act:

(a) the removal or alteration of any electronic rights management information without authority;

(b) the distribution, importation for distribution or communication to the public, without authority, of works or copies of works knowing that electronic rights management information has been removed or altered without authority.

(5) For the purpose of subsection (4) and section 41, "rights management information" means information which identifies the works, the author of the work, the owner of any right in the work, or information about the terms and conditions of use of the work, any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work or appears in connection with the communication of a work to the public. "

Section 10. Amendment of section 41.

Subsection 41(1) of the principal Act is amended-

(a) in paragraph (f) by deleting the word "or" at the end of the paragraph;

(b) by substituting for the comma at the end of paragraph (g) a semicolon and inserting thereafter the following paragraphs:

"(h) circumvents or causes the circumvention of any effective technological measures referred to in subsection (3) of section 36;

(i) removes or alters any electronic rights management information without authority; or

(j) distributes, imports for distribution or communicates to the public, without authority, works or copies of works in respect of which electronic rights management information has been removed or altered without authority;";

(c) in paragraph (i) by deleting the word "and" at the end of the paragraph; and

(d) in paragraph (ii) by substituting for the full stop at the end of the paragraph a semicolon and inserting thereafter the following paragraph:

"(iii) in the case of an offence under paragraphs (h) , (i) and (j) , to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both and for any subsequent offence, to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both. "

Section 11. Amendment of section 58.

Subsection 58(2) of the principal Act is amended-

(a) in paragraph (a) by substituting for the words "broadcast, communicate by cable" the words "communicate to the public"; and

(b) in paragraph (b) by substituting for the words "broadcast or communicate them by cable" the words "communicate them to the public".

Section 12. New section 59B.

The principal Act is amended by inserting after section 59A the following section:

"Power of Minister to exclude from definition of "broadcast".

59B. (1) The Minister may, by order, exclude from the definition of "broadcast" in relation to a transmission by wire any of the following services:

(a) an interactive service;

(b) an internal business service;

(c) an individual domestic service;

(d) a service on single-occupier premises otherwise than by way of business amenity;

(e) a service run for persons providing broadcasting services through means of wire or providing programmes for such services.

(2) The Minister may, by order, amend subsection (1) so as to add to or remove from the exclusion referred to in that subsection. "